

AMENDED IN ASSEMBLY MAY 26, 2006

AMENDED IN SENATE JANUARY 4, 2006

SENATE BILL

No. 763

Introduced by Senator Lowenthal

February 22, 2005

An act to amend Sections 7076, 7086, 7097, and 7107 of, and to add Section 7114.2 to, the Government Code, and to amend Sections 17053.34, 17053.46, 17053.47, 23622.8, 23634, and 23646 of the Revenue and Taxation Code, relating to economic development.

LEGISLATIVE COUNSEL'S DIGEST

SB 763, as amended, Lowenthal. Economic development.

The Enterprise Zone Act prescribes the duties and responsibilities of the Department of Housing and Community Development in connection with the establishment of enterprise zones and manufacturing enhancement areas. The act authorizes the department and local governments to charge and collect fees in connection with its provisions, and to assess each enterprise zone a fee of not more than \$10 for each application it accepts for the issuance of a specified tax certificate issued by a local government.

Existing law also requires the Department of Housing and Community Development to administer the targeted tax area program and to rank and designate applicant communities that meet specified criteria as targeted tax areas. Existing law also requires the department to administer the Local Agency Military Base Recovery Act and to designate a military base or a former military base as eligible to be a local agency military base recovery area (LAMBRA).

This bill would authorize the department to charge a fee in connection with the costs of administering provisions relating to the

targeted tax area program and the Local Agency Military Base Recovery Act and would also require the department, ~~until July 1, 2009,~~ to also assess an enterprise zone, a manufacturing enhancement area, a targeted tax area, and a local agency military base recovery area (LAMBRA) the same fee of not more than \$10, as specified above.

The bill would also require the department to develop regulations for the issuance of these tax certificates and would also make other conforming and technical changes to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 7076 of the Government Code is
2 amended to read:
3 7076. (a) (1) The department shall provide technical
4 assistance to the enterprise zones designated pursuant to this
5 chapter with respect to all of the following activities:
6 (A) Furnish limited onsite assistance to the enterprise zones
7 when appropriate.
8 (B) Ensure that the locality has developed a method to make
9 residents, businesses, and neighborhood organizations aware of
10 the opportunities to participate in the program.
11 (C) Help the locality develop a marketing program for the
12 enterprise zone.
13 (D) Coordinate activities of other state agencies regarding the
14 enterprise zones.
15 (E) Monitor the progress of the program.
16 (F) Help businesses to participate in the program.
17 (2) Notwithstanding existing law, the provision of services in
18 subparagraphs (A) to (F), inclusive, shall be a high priority of the
19 department.
20 (3) The department may, at its discretion, undertake other
21 activities in providing management and technical assistance for
22 successful implementation of this chapter.
23 (b) The applicant shall be required to begin implementation of
24 the enterprise zone plan contained in the final application within
25 six months after notification of final designation or the enterprise
26 zone shall lose its designation.

(c) The department may establish, charge, and collect a fee as reimbursement for the costs of its administration of this chapter. The department shall assess each enterprise zone and manufacturing enhancement area a fee of not more than ten dollars (\$10) for each application for issuance of a certificate pursuant to subdivision (j) of Section ~~18053.47~~ 17053.47 of, subdivision (c) of Section 17053.74 of, subdivision (c) of Section 23622.7 of, or subdivision (i) of Section 23622.8 of, the Revenue and Taxation Code. The enterprise zone or manufacturing enhancement area administrator shall collect this fee at the time an application is submitted for issuance of a certificate. ~~This subdivision shall become inoperative on July 1, 2009, and shall have no force or effect on or after that date.~~

SEC. 2. Section 7086 of the Government Code is amended to read:

7086. (a) The department shall design, develop, and make available the applications and the criteria for selection of enterprise zones pursuant to Section 7073 and shall adopt all regulations necessary to carry out this chapter.

(b) The department shall adopt regulations concerning the designation procedures and application process as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2. The adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare, notwithstanding subdivision (e) of Section 11346.1. Notwithstanding subdivision (e) of Section 11346.1, the regulations shall not remain in effect more than 120 days unless the department complies with all provisions of Chapter 3.5 as required by subdivision (e) of Section 11346.1.

(c) The Department of General Services, with the cooperation of the Employment Development Department, the Department of Industrial Relations, and the Office of Planning and Research, and under the direction of the State and Consumer Services Agency, shall adopt appropriate rules, regulations, and guidelines to implement Section 7084.

(d) The department shall adopt regulations governing the imposition and collection of fees pursuant to subdivision (c) of Section 7076, and the issuance of certificates pursuant to

subdivision (j) of Section 17053.47 of, subdivision (c) of Section 17053.74 of, subdivision (c) of Section 23622.7 of, or subdivision (i) of Section 23622.8 of, the Revenue and Taxation Code. The regulations shall provide for a notice or invoice to fee payers as to the amount and purpose of the fee. The adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Notwithstanding subdivision (e) of Section 11346.1, the regulations shall remain in effect for no more than 360 days unless the agency complies with all the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 as required by subdivision (e) of Section 11346.1.

SEC. 3. Section 7097 of the Government Code is amended to read:

7097. (a) The Department of Housing and Community Development shall rank applicant communities and shall designate the first ranking community whose governing body is applying as a community to be designated as a targeted tax area which meets at least four of the five following criteria:

(1) The average unemployment rate in the applicant community exceeded 7.5 percent in 1995.

(2) The average unemployment rate in the applicant community exceeded 7.5 percent in 1996.

(3) The median family income in the applicant community does not exceed thirty-two thousand seven hundred dollars (\$32,700).

(4) The percentage of persons in the applicant community below the poverty level is at least 17.5 percent.

(5) The applicant community ranks in the top quartile, among California counties, in the percentage of population receiving Aid for Families with Dependent Children benefits, based on the Cash Grant Caseload Movement and Expenditures Report, July 1995 to June 1996.

(b) For purposes of applying any provision of the Revenue and Taxation Code, any targeted tax area designated pursuant to this section shall not be considered an enterprise zone designated pursuant to Chapter 12.8 (commencing with Section 7070).

1 (c) Except as provided in subdivision (e), the designation as a
2 targeted tax area pursuant to this section shall be binding for a
3 period of 15 years, commencing January 1, 1998.

4 (d) Only one targeted tax area shall be designated by the
5 department, and a renewed or replacement designation shall not
6 be made after the initial designation expires or is revoked.

7 (e) An audit of the program's operation shall be made by the
8 department on a periodic basis with the cooperation of the local
9 governing board. If the department determines that the local
10 jurisdiction is not complying with the terms of the memorandum
11 of understanding, the department shall provide written notice of
12 the program deficiencies and the governing body shall be given
13 six months to correct the deficiencies. If the deficiencies are not
14 corrected, the designation shall be revoked.

15 (f) A county and any cities within the county may apply
16 jointly as a community if the combination of the jurisdictions
17 meets the criteria.

18 (g) (1) The department may establish, charge, and collect a
19 fee as reimbursement for the costs of its administration of this
20 chapter. The department shall assess each targeted tax area a fee
21 of not more than ten dollars (\$10) for each application for
22 issuance of a certificate pursuant to subdivision (d) of Section
23 17053.34 of the Revenue and Taxation Code and subdivision (d)
24 of Section 23634 of the Revenue and Taxation Code. The
25 targeted tax area administrator shall collect this fee at the time an
26 application is submitted for issuance of a certificate. ~~This~~
27 ~~paragraph shall become inoperative on July 1, 2009, and shall~~
28 ~~have no force or effect on or after that date.~~

29 (2) The department shall adopt regulations governing the
30 imposition and collection of fees pursuant to this subdivision and
31 the issuance of certificates pursuant to subdivision (d) of Section
32 17053.34 of the Revenue and Taxation Code and subdivision (d)
33 of Section 23634 of the Revenue and Taxation Code. The
34 regulations shall provide for a notice or invoice to fee payers as
35 to the amount and purpose of the fee. The adoption of the
36 regulations shall be deemed to be an emergency and necessary
37 for the immediate preservation of the public peace, health and
38 safety, or general welfare. Notwithstanding subdivision (e) of
39 Section 11346.1, the regulations shall remain in effect for no
40 more than 360 days unless the agency complies with all the

1 provisions of Chapter 3.5 (commencing with Section 11340) of
2 Part 1 of Division 3 of Title 2 as required by subdivision (e) of
3 Section 11346.1.

4 SEC. 4. Section 7107 of the Government Code is amended to
5 read:

6 7107. For purposes of this chapter:

7 (a) “Department” means the Department of Housing and
8 Community Development.

9 (b) “Base” means a federal military installation or
10 subinstallation as defined by regulations of the Departments of
11 the Army, Navy, and Air Force, and other defense activities.

12 (c) “Critically needed hazardous waste facilities” means a
13 facility that will provide necessary offsite treatment capacity for
14 which there is a substantial shortfall or lack of capacity. This
15 shortfall shall be as identified in any of the following documents:

16 (1) The State Hazardous Waste Management Plan.

17 (2) The State’s Capacity Assurance Plan required by federal
18 law.

19 (3) Other reports of the Department of Toxic Substances
20 Control.

21 (d) “Downsizing” means a significant reduction in federal
22 funding, personnel, and equipment on a base.

23 (e) “Economic development plan” includes, but is not limited
24 to, a marketing plan, a job development plan, and an analysis of
25 infrastructure.

26 (f) “Eligible area” means a geographic area meeting the
27 criteria described in Section 7111.

28 (g) “Governing body” means a city, county, city and county,
29 joint powers agency, council, or board, as appropriate.

30 (h) “Local agency military base recovery area” (LAMBRA)
31 means any military base or former military base or portion
32 thereof which is designated in accordance with the provisions of
33 Section 7114.

34 (i) “Region One” includes the following counties: Del Norte,
35 Siskiyou, Modoc, Humboldt, Trinity, Shasta, Lassen,
36 Mendocino, Tehama, Glenn, Butte, Plumas, Marin, Napa,
37 Sonoma, Lake, Colusa, Sutter, Yuba, Nevada, Sierra, Placer,
38 Yolo, Solano, Sacramento, El Dorado, and Amador.

(j) “Region Two” includes the following counties: Contra Costa, San Francisco, Santa Cruz, Santa Clara, Alameda, and San Mateo.

(k) “Region Three” includes the following counties: Monterey, San Benito, San Joaquin, Merced, Fresno, Stanislaus, Kings, Madera, Mariposa, Tuolumne, Calaveras, Alpine, Mono, Inyo, and Tulare.

(l) “Region Four” includes the following counties: San Diego, San Bernardino, Riverside, and Imperial.

(m) “Region Five” includes the following counties: Los Angeles, Orange, Ventura, Santa Barbara, San Luis Obispo, and Kern.

(n) “Reuse plan” includes, but is not limited to, an evaluation of community goals for the future as they relate to potential use of the former military facilities and land areas, market studies or surveys to evaluate the regional economic setting, trends, and pressures affecting base reuse, surveys or inventories of on-base facilities to determine their condition, quality and reuse potential and liability, development of reuse alternatives responding to market conditions, community goals, and reuse of potential of existing assets, review of alternative strategies with the community at large and consensus building of a preferred development strategy.

SEC. 5. Section 7114.2 is added to the Government Code, to read:

7114.2. (a) The department may establish, charge, and collect a fee as reimbursement for the costs of its administration of this chapter. The department shall assess each LAMBRA a fee of not more than ten dollars (\$10) for each application for issuance of a certificate pursuant to subdivision (c) of Section 17053.46 of the Revenue and Taxation Code and subdivision (c) of Section 23646 of the Revenue and Taxation Code. The LAMBRA administrator shall collect this fee at the time an application is submitted for issuance of a certificate.—This subdivision shall become inoperative on July 1, 2009, and shall have no force or effect on or after that date.

(b) The department shall adopt regulations governing the imposition and collection of fees pursuant to this section and the issuance of certificates pursuant to subdivision (c) of Section 17053.46 of the Revenue and Taxation Code and subdivision (c)

1 of Section 23646 of the Revenue and Taxation Code. The
2 regulations shall provide for a notice or invoice to fee payers as
3 to the amount and purpose of the fee. The adoption of the
4 regulations shall be deemed to be an emergency and necessary
5 for the immediate preservation of the public peace, health and
6 safety, or general welfare. Notwithstanding subdivision (e) of
7 Section 11346.1, the regulations shall remain in effect for no
8 more than 360 days unless the agency complies with all the
9 provisions of Chapter 3.5 (commencing with Section 11340) of
10 Part 1 of Division 3 of Title 2 as required by subdivision (e) of
11 Section 11346.1.

12 SEC. 6. Section 17053.34 of the Revenue and Taxation Code
13 is amended to read:

14 17053.34. (a) For each taxable year beginning on or after
15 January 1, 1998, there shall be allowed a credit against the “net
16 tax” (as defined in Section 17039) to a qualified taxpayer who
17 employs a qualified employee in a targeted tax area during the
18 taxable year. The credit shall be equal to the sum of each of the
19 following:

20 (1) Fifty percent of qualified wages in the first year of
21 employment.

22 (2) Forty percent of qualified wages in the second year of
23 employment.

24 (3) Thirty percent of qualified wages in the third year of
25 employment.

26 (4) Twenty percent of qualified wages in the fourth year of
27 employment.

28 (5) Ten percent of qualified wages in the fifth year of
29 employment.

30 (b) For purposes of this section:

31 (1) “Qualified wages” means:

32 (A) That portion of wages paid or incurred by the qualified
33 taxpayer during the taxable year to qualified employees that does
34 not exceed 150 percent of the minimum wage.

35 (B) Wages received during the 60-month period beginning
36 with the first day the employee commences employment with the
37 qualified taxpayer. Reemployment in connection with any
38 increase, including a regularly occurring seasonal increase, in the
39 trade or business operations of the qualified taxpayer does not

1 constitute commencement of employment for purposes of this
2 section.

3 (C) Qualified wages do not include any wages paid or incurred
4 by the qualified taxpayer on or after the targeted tax area
5 expiration date. However, wages paid or incurred with respect to
6 qualified employees who are employed by the qualified taxpayer
7 within the targeted tax area within the 60-month period prior to
8 the targeted tax area expiration date shall continue to qualify for
9 the credit under this section after the targeted tax area expiration
10 date, in accordance with all provisions of this section applied as
11 if the targeted tax area designation were still in existence and
12 binding.

13 (2) “Minimum wage” means the wage established by the
14 Industrial Welfare Commission as provided for in Chapter 1
15 (commencing with Section 1171) of Part 4 of Division 2 of the
16 Labor Code.

17 (3) “Targeted tax area expiration date” means the date the
18 targeted tax area designation expires, is revoked, is no longer
19 binding, or becomes inoperative.

20 (4) (A) “Qualified employee” means an individual who meets
21 all of the following requirements:

22 (i) At least 90 percent of his or her services for the qualified
23 taxpayer during the taxable year are directly related to the
24 conduct of the qualified taxpayer’s trade or business located in a
25 targeted tax area.

26 (ii) Performs at least 50 percent of his or her services for the
27 qualified taxpayer during the taxable year in a targeted tax area.

28 (iii) Is hired by the qualified taxpayer after the date of original
29 designation of the area in which services were performed as a
30 targeted tax area.

31 (iv) Is any of the following:

32 (I) Immediately preceding the qualified employee’s
33 commencement of employment with the qualified taxpayer, was
34 a person eligible for services under the federal Job Training
35 Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor,
36 who is receiving, or is eligible to receive, subsidized
37 employment, training, or services funded by the federal Job
38 Training Partnership Act, or its successor.

39 (II) Immediately preceding the qualified employee’s
40 commencement of employment with the qualified taxpayer, was

1 a person eligible to be a voluntary or mandatory registrant under
2 the Greater Avenues for Independence Act of 1985 (GAIN)
3 provided for pursuant to Article 3.2 (commencing with Section
4 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and
5 Institutions Code, or its successor.

6 (III) Immediately preceding the qualified employee's
7 commencement of employment with the qualified taxpayer, was
8 an economically disadvantaged individual 14 years of age or
9 older.

10 (IV) Immediately preceding the qualified employee's
11 commencement of employment with the qualified taxpayer, was
12 a dislocated worker who meets any of the following:

13 (aa) Has been terminated or laid off or who has received a
14 notice of termination or layoff from employment, is eligible for
15 or has exhausted entitlement to unemployment insurance
16 benefits, and is unlikely to return to his or her previous industry
17 or occupation.

18 (bb) Has been terminated or has received a notice of
19 termination of employment as a result of any permanent closure
20 or any substantial layoff at a plant, facility, or enterprise,
21 including an individual who has not received written notification
22 but whose employer has made a public announcement of the
23 closure or layoff.

24 (cc) Is long-term unemployed and has limited opportunities for
25 employment or reemployment in the same or a similar
26 occupation in the area in which the individual resides, including
27 an individual 55 years of age or older who may have substantial
28 barriers to employment by reason of age.

29 (dd) Was self-employed (including farmers and ranchers) and
30 is unemployed as a result of general economic conditions in the
31 community in which he or she resides or because of natural
32 disasters.

33 (ee) Was a civilian employee of the Department of Defense
34 employed at a military installation being closed or realigned
35 under the Defense Base Closure and Realignment Act of 1990.

36 (ff) Was an active member of the Armed Forces or National
37 Guard as of September 30, 1990, and was either involuntarily
38 separated or separated pursuant to a special benefits program.

39 (gg) Is a seasonal or migrant worker who experiences chronic
40 seasonal unemployment and underemployment in the agriculture

1 industry, aggravated by continual advancements in technology
2 and mechanization.

3 (hh) Has been terminated or laid off, or has received a notice
4 of termination or layoff, as a consequence of compliance with the
5 Clean Air Act.

6 (V) Immediately preceding the qualified employee's
7 commencement of employment with the qualified taxpayer, was
8 a disabled individual who is eligible for or enrolled in, or has
9 completed a state rehabilitation plan or is a service-connected
10 disabled veteran, veteran of the Vietnam era, or veteran who is
11 recently separated from military service.

12 (VI) Immediately preceding the qualified employee's
13 commencement of employment with the qualified taxpayer, was
14 an ex-offender. An individual shall be treated as convicted if he
15 or she was placed on probation by a state court without a finding
16 of guilty.

17 (VII) Immediately preceding the qualified employee's
18 commencement of employment with the qualified taxpayer, was
19 a person eligible for or a recipient of any of the following:

20 (aa) Federal Supplemental Security Income benefits.

21 (bb) Aid to Families with Dependent Children.

22 (cc) Food stamps.

23 (dd) State and local general assistance.

24 (VIII) Immediately preceding the qualified employee's
25 commencement of employment with the qualified taxpayer, was
26 a member of a federally recognized Indian tribe, band, or other
27 group of Native American descent.

28 (IX) Immediately preceding the qualified employee's
29 commencement of employment with the qualified taxpayer, was
30 a resident of a targeted tax area.

31 (X) Immediately preceding the qualified employee's
32 commencement of employment with the taxpayer, was a member
33 of a targeted group as defined in Section 51(d) of the Internal
34 Revenue Code, or its successor.

35 (B) Priority for employment shall be provided to an individual
36 who is enrolled in a qualified program under the federal Job
37 Training Partnership Act or the Greater Avenues for
38 Independence Act of 1985 or who is eligible as a member of a
39 targeted group under the Work Opportunity Tax Credit (Section
40 51 of the Internal Revenue Code), or its successor.

1 (5) (A) “Qualified taxpayer” means a person or entity that
2 meets both of the following:

3 (i) Is engaged in a trade or business within a targeted tax area
4 designated pursuant to Chapter 12.93 (commencing with Section
5 7097) of Division 7 of Title 1 of the Government Code.

6 (ii) Is engaged in those lines of business described in Codes
7 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,
8 inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive,
9 of the Standard Industrial Classification (SIC) Manual published
10 by the United States Office of Management and Budget, 1987
11 edition.

12 (B) In the case of any passthrough entity, the determination of
13 whether a taxpayer is a qualified taxpayer under this section shall
14 be made at the entity level and any credit under this section or
15 Section 23634 shall be allowed to the passthrough entity and
16 passed through to the partners or shareholders in accordance with
17 applicable provisions of this part or Part 11 (commencing with
18 Section 23001). For purposes of this subdivision, the term “
19 passthrough entity” means any partnership or S corporation.

20 (6) “Seasonal employment” means employment by a qualified
21 taxpayer that has regular and predictable substantial reductions in
22 trade or business operations.

23 (c) If the qualified taxpayer is allowed a credit for qualified
24 wages pursuant to this section, only one credit shall be allowed to
25 the taxpayer under this part with respect to those qualified wages.

26 (d) The qualified taxpayer shall do both of the following:

27 (1) Obtain from the Employment Development Department, as
28 permitted by federal law, the local county or city Job Training
29 Partnership Act administrative entity, the local county GAIN
30 office or social services agency, or the local government
31 administering the targeted tax area, a certification that provides
32 that a qualified employee meets the eligibility requirements
33 specified in clause (iv) of subparagraph (A) of paragraph (4) of
34 subdivision (b). The Employment Development Department may
35 provide preliminary screening and referral to a certifying agency.
36 The Department of Housing and Community Development shall
37 develop regulations governing the issuance of certificates
38 pursuant to subdivision (g) of Section 7097 of the Government
39 Code and shall develop forms for this purpose.

1 (2) Retain a copy of the certification and provide it upon
2 request to the Franchise Tax Board.

3 (e) (1) For purposes of this section:

4 (A) All employees of trades or businesses, which are not
5 incorporated, that are under common control shall be treated as
6 employed by a single taxpayer.

7 (B) The credit, if any, allowable by this section with respect to
8 each trade or business shall be determined by reference to its
9 proportionate share of the expense of the qualified wages giving
10 rise to the credit, and shall be allocated in that manner.

11 (C) Principles that apply in the case of controlled groups of
12 corporations, as specified in subdivision (d) of Section 23634,
13 shall apply with respect to determining employment.

14 (2) If an employer acquires the major portion of a trade or
15 business of another employer (hereinafter in this paragraph
16 referred to as the “predecessor”) or the major portion of a
17 separate unit of a trade or business of a predecessor, then, for
18 purposes of applying this section (other than subdivision (f)) for
19 any calendar year ending after that acquisition, the employment
20 relationship between a qualified employee and an employer shall
21 not be treated as terminated if the employee continues to be
22 employed in that trade or business.

23 (f) (1) (A) If the employment, other than seasonal
24 employment, of any qualified employee, with respect to whom
25 qualified wages are taken into account under subdivision (a) is
26 terminated by the qualified taxpayer at any time during the first
27 270 days of that employment (whether or not consecutive) or
28 before the close of the 270th calendar day after the day in which
29 that employee completes 90 days of employment with the
30 qualified taxpayer, the tax imposed by this part for the taxable
31 year in which that employment is terminated shall be increased
32 by an amount equal to the credit allowed under subdivision (a)
33 for that taxable year and all prior taxable years attributable to
34 qualified wages paid or incurred with respect to that employee.

35 (B) If the seasonal employment of any qualified employee,
36 with respect to whom qualified wages are taken into account
37 under subdivision (a) is not continued by the qualified taxpayer
38 for a period of 270 days of employment during the 60-month
39 period beginning with the day the qualified employee
40 commences seasonal employment with the qualified taxpayer,

1 the tax imposed by this part, for the taxable year that includes the
2 60th month following the month in which the qualified employee
3 commences seasonal employment with the qualified taxpayer,
4 shall be increased by an amount equal to the credit allowed under
5 subdivision (a) for that taxable year and all prior taxable years
6 attributable to qualified wages paid or incurred with respect to
7 that qualified employee.

8 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to
9 any of the following:

10 (i) A termination of employment of a qualified employee who
11 voluntarily leaves the employment of the qualified taxpayer.

12 (ii) A termination of employment of a qualified employee
13 who, before the close of the period referred to in subparagraph
14 (A) of paragraph (1), becomes disabled and unable to perform the
15 services of that employment, unless that disability is removed
16 before the close of that period and the qualified taxpayer fails to
17 offer reemployment to that employee.

18 (iii) A termination of employment of a qualified employee, if
19 it is determined that the termination was due to the misconduct
20 (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22
21 of the California Code of Regulations) of that employee.

22 (iv) A termination of employment of a qualified employee due
23 to a substantial reduction in the trade or business operations of
24 the qualified taxpayer.

25 (v) A termination of employment of a qualified employee, if
26 that employee is replaced by other qualified employees so as to
27 create a net increase in both the number of employees and the
28 hours of employment.

29 (B) Subparagraph (B) of paragraph (1) shall not apply to any
30 of the following:

31 (i) A failure to continue the seasonal employment of a
32 qualified employee who voluntarily fails to return to the seasonal
33 employment of the qualified taxpayer.

34 (ii) A failure to continue the seasonal employment of a
35 qualified employee who, before the close of the period referred to
36 in subparagraph (B) of paragraph (1), becomes disabled and
37 unable to perform the services of that seasonal employment,
38 unless that disability is removed before the close of that period
39 and the qualified taxpayer fails to offer seasonal employment to
40 that qualified employee.

1 (iii) A failure to continue the seasonal employment of a
2 qualified employee, if it is determined that the failure to continue
3 the seasonal employment was due to the misconduct (as defined
4 in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the
5 California Code of Regulations) of that qualified employee.

6 (iv) A failure to continue seasonal employment of a qualified
7 employee due to a substantial reduction in the regular seasonal
8 trade or business operations of the qualified taxpayer.

9 (v) A failure to continue the seasonal employment of a
10 qualified employee, if that qualified employee is replaced by
11 other qualified employees so as to create a net increase in both
12 the number of seasonal employees and the hours of seasonal
13 employment.

14 (C) For purposes of paragraph (1), the employment
15 relationship between the qualified taxpayer and a qualified
16 employee shall not be treated as terminated by reason of a mere
17 change in the form of conducting the trade or business of the
18 qualified taxpayer, if the qualified employee continues to be
19 employed in that trade or business and the qualified taxpayer
20 retains a substantial interest in that trade or business.

21 (3) Any increase in tax under paragraph (1) shall not be treated
22 as tax imposed by this part for purposes of determining the
23 amount of any credit allowable under this part.

24 (g) In the case of an estate or trust, both of the following
25 apply:

26 (1) The qualified wages for any taxable year shall be
27 apportioned between the estate or trust and the beneficiaries on
28 the basis of the income of the estate or trust allocable to each.

29 (2) Any beneficiary to whom any qualified wages have been
30 apportioned under paragraph (1) shall be treated, for purposes of
31 this part, as the employer with respect to those wages.

32 (h) For purposes of this section, “targeted tax area” means an
33 area designated pursuant to Chapter 12.93 (commencing with
34 Section 7097) of Division 7 of Title 1 of the Government Code.

35 (i) In the case where the credit otherwise allowed under this
36 section exceeds the “net tax” for the taxable year, that portion of
37 the credit that exceeds the “net tax” may be carried over and
38 added to the credit, if any, in succeeding taxable years, until the
39 credit is exhausted. The credit shall be applied first to the earliest
40 taxable years possible.

(j) (1) The amount of the credit otherwise allowed under this section and Section 17053.33, including any credit carryover from prior years, that may reduce the “net tax” for the taxable year shall not exceed the amount of tax that would be imposed on the qualified taxpayer’s business income attributable to the targeted tax area determined as if that attributable income represented all of the income of the qualified taxpayer subject to tax under this part.

(2) Attributable income shall be that portion of the taxpayer’s California source business income that is apportioned to the targeted tax ~~area~~. *area*. For that purpose, the taxpayer’s business income attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101) of Part 11. That business income shall be further apportioned to the targeted tax area in accordance with Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified for purposes of this section in accordance with paragraph (3).

(3) Business income shall be apportioned to the targeted tax area by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer’s real and tangible personal property owned or rented and used in the targeted tax area during the taxable year, and the denominator of which is the average value of all the taxpayer’s real and tangible personal property owned or rented and used in this state during the taxable year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the targeted tax area during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, as if it were an amount exceeding the “net tax” for the taxable year, as provided in subdivision (h).

(5) In the event that a credit carryover is allowable under subdivision (h) for any taxable year after the targeted tax area

1 expiration date, the targeted tax area shall be deemed to remain
2 in existence for purposes of computing the limitation specified in
3 this subdivision.

4 SEC. 7. Section 17053.46 of the Revenue and Taxation Code
5 is amended to read:

6 17053.46. (a) For each taxable year beginning on or after
7 January 1, 1995, there shall be allowed as a credit against the
8 “net tax” (as defined in Section 17039) to a qualified taxpayer for
9 hiring a qualified disadvantaged individual or a qualified
10 displaced employee during the taxable year for employment in
11 the LAMBRA. The credit shall be equal to the sum of each of the
12 following:

13 (1) Fifty percent of the qualified wages in the first year of
14 employment.

15 (2) Forty percent of the qualified wages in the second year of
16 employment.

17 (3) Thirty percent of the qualified wages in the third year of
18 employment.

19 (4) Twenty percent of the qualified wages in the fourth year of
20 employment.

21 (5) Ten percent of the qualified wages in the fifth year of
22 employment.

23 (b) For purposes of this section:

24 (1) “Qualified wages” means:

25 (A) That portion of wages paid or incurred by the employer
26 during the taxable year to qualified disadvantaged individuals or
27 qualified displaced employees that does not exceed 150 percent
28 of the minimum wage.

29 (B) The total amount of qualified wages which may be taken
30 into account for purposes of claiming the credit allowed under
31 this section shall not exceed two million dollars (\$2,000,000) per
32 taxable year.

33 (C) Wages received during the 60-month period beginning
34 with the first day the individual commences employment with the
35 taxpayer. Reemployment in connection with any increase,
36 including a regularly occurring seasonal increase, in the trade or
37 business operations of the qualified taxpayer does not constitute
38 commencement of employment for purposes of this section.

39 (D) Qualified wages do not include any wages paid or incurred
40 by the qualified taxpayer on or after the LAMBRA expiration

1 date. However, wages paid or incurred with respect to qualified
2 disadvantaged individuals or qualified displaced employees who
3 are employed by the qualified taxpayer within the LAMBRA
4 within the 60-month period prior to the LAMBRA expiration
5 date shall continue to qualify for the credit under this section
6 after the LAMBRA expiration date, in accordance with all
7 provisions of this section applied as if the LAMBRA designation
8 were still in existence and binding.

9 (2) “Minimum wage” means the wage established by the
10 Industrial Welfare Commission as provided for in Chapter 1
11 (commencing with Section 1171) of Part 4 of Division 2 of the
12 Labor Code.

13 (3) “LAMBRA” means a local agency military base recovery
14 area designated in accordance with Section 7114 of the
15 Government Code.

16 (4) “Qualified disadvantaged individual” means an individual
17 who satisfies all of the following requirements:

18 (A) (i) At least 90 percent of whose services for the taxpayer
19 during the taxable year are directly related to the conduct of the
20 taxpayer’s trade or business located in a LAMBRA.

21 (ii) Who performs at least 50 percent of his or her services for
22 the taxpayer during the taxable year in the LAMBRA.

23 (B) Who is hired by the employer after the designation of the
24 area as a LAMBRA in which the individual’s services were
25 primarily performed.

26 (C) Who is any of the following immediately preceding the
27 individual’s commencement of employment with the taxpayer:

28 (i) An individual who has been determined eligible for
29 services under the federal Job Training Partnership Act (29
30 U.S.C. Sec. 1501 et seq.).

31 (ii) Any voluntary or mandatory registrant under the Greater
32 Avenues for Independence Act of 1985 as provided pursuant to
33 Article 3.2 (commencing with Section 11320) of Chapter 2 of
34 Part 3 of Division 9 of the Welfare and Institutions Code.

35 (iii) An economically disadvantaged individual age 16 years or
36 older.

37 (iv) A dislocated worker who meets any of the following
38 conditions:

39 (I) Has been terminated or laid off or who has received a
40 notice of termination or layoff from employment, is eligible for

1 or has exhausted entitlement to unemployment insurance
2 benefits, and is unlikely to return to his or her previous industry
3 or occupation.

4 (II) Has been terminated or has received a notice of
5 termination of employment as a result of any permanent closure
6 or any substantial layoff at a plant, facility, or enterprise,
7 including an individual who has not received written notification
8 but whose employer has made a public announcement of ~~such a~~
9 *the* closure or layoff.

10 (III) Is long-term unemployed and has limited opportunities
11 for employment or reemployment in the same or a similar
12 occupation in the area in which the individual resides, including
13 an individual 55 years of age or older who may have substantial
14 barriers to employment by reason of age.

15 (IV) Was self-employed (including farmers and ranchers) and
16 is unemployed as a result of general economic conditions in the
17 community in which he or she resides or because of natural
18 disasters.

19 (V) Was a civilian employee of the Department of Defense
20 employed at a military installation being closed or realigned
21 under the Defense Base Closure and Realignment Act of 1990.

22 (VI) Was an active member of the Armed Forces or National
23 Guard as of September 30, 1990, and was either involuntarily
24 separated or separated pursuant to a special benefits program.

25 (VII) Experiences chronic seasonal unemployment and
26 underemployment in the agriculture industry, aggravated by
27 continual advancements in technology and mechanization.

28 (VIII) Has been terminated or laid off or has received a notice
29 of termination or layoff as a consequence of compliance with the
30 Clean Air Act.

31 (v) An individual who is enrolled in or has completed a state
32 rehabilitation plan or is a service-connected disabled veteran,
33 veteran of the Vietnam era, or veteran who is recently separated
34 from military service.

35 (vi) An ex-offender. An individual shall be treated as
36 convicted if he or she was placed on probation by a state court
37 without a finding of guilty.

38 (vii) A recipient of:

39 (I) Federal Supplemental Security Income benefits.

40 (II) Aid to Families with Dependent Children.

1 (III) Food stamps.

2 (IV) State and local general assistance.

3 (viii) Is a member of a federally recognized Indian tribe, band,
4 or other group of Native American descent.

5 (5) “Qualified taxpayer” means a taxpayer or partnership that
6 conducts a trade or business within a LAMBRA and, for the first
7 two taxable years, has a net increase in jobs (defined as 2,000
8 paid hours per employee per year) of one or more employees in
9 the LAMBRA.

10 (A) The net increase in the number of jobs shall be determined
11 by subtracting the total number of full-time employees (defined
12 as 2,000 paid hours per employee per year) the taxpayer
13 employed in this state in the taxable year prior to commencing
14 business operations in the LAMBRA from the total number of
15 full-time employees the taxpayer employed in this state during
16 the second taxable year after commencing business operations in
17 the LAMBRA. For taxpayers who commence doing business in
18 this state with their LAMBRA business operation, the number of
19 employees for the taxable year prior to commencing business
20 operations in the LAMBRA shall be zero. If the taxpayer has a
21 net increase in jobs in the state, the credit shall be allowed only if
22 one or more full-time employees is employed within the
23 LAMBRA.

24 (B) The total number of employees employed in the
25 LAMBRA shall equal the sum of both of the following:

26 (i) The total number of hours worked in the LAMBRA for the
27 taxpayer by employees (not to exceed 2,000 hours per employee)
28 who are paid an hourly wage divided by 2,000.

29 (ii) The total number of months worked in the LAMBRA for
30 the taxpayer by employees who are salaried employees divided
31 by 12.

32 (C) In the case of a taxpayer who first commences doing
33 business in the LAMBRA during the taxable year, for purposes
34 of clauses (i) and (ii), respectively, of subparagraph (B), the
35 divisors “2,000” and “12” shall be multiplied by a fraction, the
36 numerator of which is the number of months of the taxable year
37 that the taxpayer was doing business in the LAMBRA and the
38 denominator of which is 12.

39 (6) “Qualified displaced employee” means an individual who
40 satisfies all of the following requirements:

1 (A) Any civilian or military employee of a base or former base
2 who has been displaced as a result of a federal base closure act.

3 (B) (i) At least 90 percent of whose services for the taxpayer
4 during the taxable year are directly related to the conduct of the
5 taxpayer's trade or business located in a LAMBRA.

6 (ii) Who performs at least 50 percent of his or her services for
7 the taxpayer during the taxable year in a LAMBRA.

8 (C) Who is hired by the employer after the designation of the
9 area in which services were performed as a LAMBRA.

10 (7) "Seasonal employment" means employment by a qualified
11 taxpayer that has regular and predictable substantial reductions in
12 trade or business operations.

13 (8) "LAMBRA expiration date" means the date the LAMBRA
14 designation expires, is no longer binding, or becomes
15 inoperative.

16 (c) For qualified disadvantaged individuals or qualified
17 displaced employees hired on or after January 1, 2001, the
18 taxpayer shall do both of the following:

19 (1) Obtain from the Employment Development Department, as
20 permitted by federal law, the local county or city Job Training
21 Partnership Act administrative entity, the local county GAIN
22 office or social services agency, or the local government
23 administering the LAMBRA, a certification that provides that a
24 qualified disadvantaged individual or qualified displaced
25 employee meets the eligibility requirements specified in
26 subparagraph (C) of paragraph (4) of subdivision (b) or
27 subparagraph (A) of paragraph (6) of subdivision (b). The
28 Employment Development Department may provide preliminary
29 screening and referral to a certifying agency. The Department of
30 Housing and Community Development shall develop regulations
31 governing the issuance of certificates pursuant to Section 7114.2
32 of the Government Code and shall develop forms for this
33 purpose.

34 (2) Retain a copy of the certification and provide it upon
35 request to the Franchise Tax Board.

36 (d) (1) For purposes of this section, both of the following
37 apply:

38 (A) All employees of trades or businesses that are under
39 common control shall be treated as employed by a single
40 employer.

1 (B) The credit (if any) allowable by this section with respect to
2 each trade or business shall be determined by reference to its
3 proportionate share of the qualified wages giving rise to the
4 credit.

5 The regulations prescribed under this paragraph shall be based
6 on principles similar to the principles that apply in the case of
7 controlled groups of corporations as specified in subdivision (e)
8 of Section 23622.

9 (2) If an employer acquires the major portion of a trade or
10 business of another employer (hereinafter in this paragraph
11 referred to as the “predecessor”) or the major portion of a
12 separate unit of a trade or business of a predecessor, then, for
13 purposes of applying this section (other than subdivision (d)) for
14 any calendar year ending after that acquisition, the employment
15 relationship between an employee and an employer shall not be
16 treated as terminated if the employee continues to be employed
17 in that trade or business.

18 (e) (1) (A) If the employment, other than seasonal
19 employment, of any employee, with respect to whom qualified
20 wages are taken into account under subdivision (a) is terminated
21 by the taxpayer at any time during the first 270 days of that
22 employment (whether or not consecutive) or before the close of
23 the 270th calendar day after the day in which that employee
24 completes 90 days of employment with the taxpayer, the tax
25 imposed by this part for the taxable year in which that
26 employment is terminated shall be increased by an amount
27 (determined under those regulations) equal to the credit allowed
28 under subdivision (a) for that taxable year and all prior taxable
29 years attributable to qualified wages paid or incurred with respect
30 to that employee.

31 (B) If the seasonal employment of any qualified disadvantaged
32 individual, with respect to whom qualified wages are taken into
33 account under subdivision (a) is not continued by the qualified
34 taxpayer for a period of 270 days of employment during the
35 60-month period beginning with the day the qualified
36 disadvantaged individual commences seasonal employment with
37 the qualified taxpayer, the tax imposed by this part, for the
38 taxable year that includes the 60th month following the month in
39 which the qualified disadvantaged individual commences
40 seasonal employment with the qualified taxpayer, shall be

1 increased by an amount equal to the credit allowed under
2 subdivision (a) for that taxable year and all prior taxable years
3 attributable to qualified wages paid or incurred with respect to
4 that qualified disadvantaged individual.

5 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to
6 any of the following:

7 (i) A termination of employment of an employee who
8 voluntarily leaves the employment of the taxpayer.

9 (ii) A termination of employment of an individual who, before
10 the close of the period referred to in subparagraph (A) of
11 paragraph (1), becomes disabled to perform the services of that
12 employment, unless that disability is removed before the close of
13 that period and the taxpayer fails to offer reemployment to that
14 individual.

15 (iii) A termination of employment of an individual, if it is
16 determined that the termination was due to the misconduct (as
17 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
18 the California Code of Regulations) of that individual.

19 (iv) A termination of employment of an individual due to a
20 substantial reduction in the trade or business operations of the
21 taxpayer.

22 (v) A termination of employment of an individual, if that
23 individual is replaced by other qualified employees so as to
24 create a net increase in both the number of employees and the
25 hours of employment.

26 (B) Subparagraph (B) of paragraph (1) shall not apply to any
27 of the following:

28 (i) A failure to continue the seasonal employment of a
29 qualified disadvantaged individual who voluntarily fails to return
30 to the seasonal employment of the qualified taxpayer.

31 (ii) A failure to continue the seasonal employment of a
32 qualified disadvantaged individual who, before the close of the
33 period referred to in subparagraph (B) of paragraph (1), becomes
34 disabled and unable to perform the services of that seasonal
35 employment, unless that disability is removed before the close of
36 that period and the qualified taxpayer fails to offer seasonal
37 employment to that individual.

38 (iii) A failure to continue the seasonal employment of a
39 qualified disadvantaged individual, if it is determined that the
40 failure to continue the seasonal employment was due to the

1 misconduct (as defined in Sections 1256-30 to 1256-43,
2 inclusive, of Title 22 of the California Code of Regulations) of
3 that qualified disadvantaged individual.

4 (iv) A failure to continue seasonal employment of a qualified
5 disadvantaged individual due to a substantial reduction in the
6 regular seasonal trade or business operations of the qualified
7 taxpayer.

8 (v) A failure to continue the seasonal employment of a
9 qualified disadvantaged individual, if that individual is replaced
10 by other qualified displaced employees so as to create a net
11 increase in both the number of seasonal employees and the hours
12 of seasonal employment.

13 (C) For purposes of paragraph (1), the employment
14 relationship between the taxpayer and an employee shall not be
15 treated as terminated by reason of a mere change in the form of
16 conducting the trade or business of the taxpayer, if the employee
17 continues to be employed in that trade or business and the
18 taxpayer retains a substantial interest in that trade or business.

19 (3) Any increase in tax under paragraph (1) shall not be treated
20 as tax imposed by this part for purposes of determining the
21 amount of any credit allowable under this part.

22 (4) At the close of the second taxable year, if the taxpayer has
23 not increased the number of its employees as determined by
24 paragraph (5) of subdivision (b), then the amount of the credit
25 previously claimed shall be added to the taxpayer's net tax for
26 the taxpayer's second taxable year.

27 (f) In the case of an estate or trust, both of the following apply:

28 (1) The qualified wages for any taxable year shall be
29 apportioned between the estate or trust and the beneficiaries on
30 the basis of the income of the estate or trust allocable to each.

31 (2) Any beneficiary to whom any qualified wages have been
32 apportioned under paragraph (1) shall be treated (for purposes of
33 this part) as the employer with respect to those wages.

34 (g) The credit shall be reduced by the credit allowed under
35 Section 17053.7. The credit shall also be reduced by the federal
36 credit allowed under Section 51 of the Internal Revenue Code.

37 In addition, any deduction otherwise allowed under this part
38 for the wages or salaries paid or incurred by the taxpayer upon
39 which the credit is based shall be reduced by the amount of the
40 credit, prior to any reduction required by subdivision (h) or (i).

1 (h) In the case where the credit otherwise allowed under this
2 section exceeds the “net tax” for the taxable year, that portion of
3 the credit that exceeds the “net tax” may be carried over and
4 added to the credit, if any, in succeeding years, until the credit is
5 exhausted. The credit shall be applied first to the earliest taxable
6 years possible.

7 (i) (1) The amount of credit otherwise allowed under this
8 section and Section 17053.45, including prior year credit
9 carryovers, that may reduce the “net tax” for the taxable year
10 shall not exceed the amount of tax that would be imposed on the
11 taxpayer’s business income attributed to a LAMBRA determined
12 as if that attributed income represented all of the net income of
13 the taxpayer subject to tax under this part.

14 (2) Attributable income shall be that portion of the taxpayer’s
15 California source business income that is apportioned to the
16 LAMBRA. For that purpose, the taxpayer’s business income that
17 is attributable to sources in this state first shall be determined in
18 accordance with Chapter 17 (commencing with Section 25101)
19 of Part 11. That business income shall be further apportioned to
20 the LAMBRA in accordance with Article 2 (commencing with
21 Section 25120) of Chapter 17 of Part 11, modified for purposes
22 of this section in accordance with paragraph (3).

23 (3) Income shall be apportioned to a LAMBRA by multiplying
24 the total California business income of the taxpayer by a fraction,
25 the numerator of which is the property factor plus the payroll
26 factor, and the denominator of which is two. For purposes of this
27 paragraph:

28 (A) The property factor is a fraction, the numerator of which is
29 the average value of the taxpayer’s real and tangible personal
30 property owned or rented and used in the LAMBRA during the
31 taxable year, and the denominator of which is the average value
32 of all the taxpayer’s real and tangible personal property owned or
33 rented and used in this state during the taxable year.

34 (B) The payroll factor is a fraction, the numerator of which is
35 the total amount paid by the taxpayer in the LAMBRA during the
36 taxable year for compensation, and the denominator of which is
37 the total compensation paid by the taxpayer in this state during
38 the taxable year.

39 (4) The portion of any credit remaining, if any, after
40 application of this subdivision, shall be carried over to

1 succeeding taxable years, as if it were an amount exceeding the
2 “net tax” for the taxable year, as provided in subdivision (h).

3 (j) If the taxpayer is allowed a credit pursuant to this section
4 for qualified wages paid or incurred, only one credit shall be
5 allowed to the taxpayer under this part with respect to any wage
6 consisting in whole or in part of those qualified wages.

7 SEC. 8. Section 17053.47 of the Revenue and Taxation Code
8 is amended to read:

9 17053.47. (a) For each taxable year beginning on or after
10 January 1, 1998, there shall be allowed a credit against the “net
11 tax” (as defined in Section 17039) to a qualified taxpayer for
12 hiring a qualified disadvantaged individual during the taxable
13 year for employment in the Manufacturing Enhancement Area.
14 The credit shall be equal to the sum of each of the following:

15 (1) Fifty percent of the qualified wages in the first year of
16 employment.

17 (2) Forty percent of the qualified wages in the second year of
18 employment.

19 (3) Thirty percent of the qualified wages in the third year of
20 employment.

21 (4) Twenty percent of the qualified wages in the fourth year of
22 employment.

23 (5) Ten percent of the qualified wages in the fifth year of
24 employment.

25 (b) For purposes of this section:

26 (1) “Qualified wages” means:

27 (A) That portion of wages paid or incurred by the qualified
28 taxpayer during the taxable year to qualified disadvantaged
29 individuals that does not exceed 150 percent of the minimum
30 wage.

31 (B) The total amount of qualified wages which may be taken
32 into account for purposes of claiming the credit allowed under
33 this section shall not exceed two million dollars (\$2,000,000) per
34 taxable year.

35 (C) Wages received during the 60-month period beginning
36 with the first day the qualified disadvantaged individual
37 commences employment with the qualified taxpayer.
38 Reemployment in connection with any increase, including a
39 regularly occurring seasonal increase, in the trade or business

1 operations of the taxpayer does not constitute commencement of
2 employment for purposes of this section.

3 (D) Qualified wages do not include any wages paid or incurred
4 by the qualified taxpayer on or after the Manufacturing
5 Enhancement Area expiration date. However, wages paid or
6 incurred with respect to qualified employees who are employed
7 by the qualified taxpayer within the Manufacturing Enhancement
8 Area within the 60-month period prior to the Manufacturing
9 Enhancement Area expiration date shall continue to qualify for
10 the credit under this section after the Manufacturing
11 Enhancement Area expiration date, in accordance with all
12 provisions of this section applied as if the Manufacturing
13 Enhancement Area designation were still in existence and
14 binding.

15 (2) “Minimum wage” means the wage established by the
16 Industrial Welfare Commission as provided for in Chapter 1
17 (commencing with Section 1171) of Part 4 of Division 2 of the
18 Labor Code.

19 (3) “Manufacturing Enhancement Area” means an area
20 designated pursuant to Section 7073.8 of the Government Code
21 according to the procedures of Chapter 12.8 (commencing with
22 Section 7070) of Division 7 of Title 1 of the Government Code.

23 (4) “Manufacturing Enhancement Area expiration date” means
24 the date the Manufacturing Enhancement Area designation
25 expires, is no longer binding, or becomes inoperative.

26 (5) “Qualified disadvantaged individual” means an individual
27 who satisfies all of the following requirements:

28 (A) (i) At least 90 percent of whose services for the qualified
29 taxpayer during the taxable year are directly related to the
30 conduct of the qualified taxpayer’s trade or business located in a
31 Manufacturing Enhancement Area.

32 (ii) Who performs at least 50 percent of his or her services for
33 the qualified taxpayer during the taxable year in the
34 Manufacturing Enhancement Area.

35 (B) Who is hired by the qualified taxpayer after the
36 designation of the area as a Manufacturing Enhancement Area in
37 which the individual’s services were primarily performed.

38 (C) Who is any of the following immediately preceding the
39 individual’s commencement of employment with the qualified
40 taxpayer:

1 (i) An individual who has been determined eligible for
2 services under the federal Job Training Partnership Act (29
3 U.S.C. Sec. 1501 et seq.), or its successor.

4 (ii) Any voluntary or mandatory registrant under the Greater
5 Avenues for Independence Act of 1985, or its successor, as
6 provided pursuant to Article 3.2 (commencing with Section
7 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and
8 Institutions Code.

9 (iii) Any individual who has been certified eligible by the
10 Employment Development Department under the federal
11 Targeted Jobs Tax Credit Program, or its successor, whether or
12 not this program is in effect.

13 (6) “Qualified taxpayer” means any taxpayer engaged in a
14 trade or business within a Manufacturing Enhancement Area
15 designated pursuant to Section 7073.8 of the Government Code
16 and who meets all of the following requirements:

17 (A) Is engaged in those lines of business described in Codes
18 0211 to 0291, inclusive, Code 0723, or in Codes 2011 to 3999,
19 inclusive, of the Standard Industrial Classification (SIC) Manual
20 published by the United States Office of Management and
21 Budget, 1987 edition.

22 (B) At least 50 percent of the qualified taxpayer’s workforce
23 hired after the designation of the Manufacturing Enhancement
24 Area is composed of individuals who, at the time of hire, are
25 residents of the county in which the Manufacturing Enhancement
26 Area is located.

27 (C) Of this percentage of local hires, at least 30 percent shall
28 be qualified disadvantaged individuals.

29 (7) “Seasonal employment” means employment by a qualified
30 taxpayer that has regular and predictable substantial reductions in
31 trade or business operations.

32 (c) (1) For purposes of this section, all of the following apply:

33 (A) All employees of trades or businesses that are under
34 common control shall be treated as employed by a single
35 qualified taxpayer.

36 (B) The credit (if any) allowable by this section with respect to
37 each trade or business shall be determined by reference to its
38 proportionate share of the expense of the qualified wages giving
39 rise to the credit and shall be allocated in that manner.

1 (C) Principles that apply in the case of controlled groups of
2 corporations, as specified in subdivision (d) of Section 23622.7,
3 shall apply with respect to determining employment.

4 (2) If a qualified taxpayer acquires the major portion of a trade
5 or business of another employer (hereinafter in this paragraph
6 referred to as the “predecessor”) or the major portion of a
7 separate unit of a trade or business of a predecessor, then, for
8 purposes of applying this section (other than subdivision (d)) for
9 any calendar year ending after that acquisition, the employment
10 relationship between a qualified disadvantaged individual and a
11 qualified taxpayer shall not be treated as terminated if the
12 qualified disadvantaged individual continues to be employed in
13 that trade or business.

14 (d) (1) (A) If the employment, other than seasonal
15 employment, of any qualified disadvantaged individual, with
16 respect to whom qualified wages are taken into account under
17 subdivision (b) is terminated by the qualified taxpayer at any
18 time during the first 270 days of that employment (whether or not
19 consecutive) or before the close of the 270th calendar day after
20 the day in which that qualified disadvantaged individual
21 completes 90 days of employment with the qualified taxpayer,
22 the tax imposed by this part for the taxable year in which that
23 employment is terminated shall be increased by an amount equal
24 to the credit allowed under subdivision (a) for that taxable year
25 and all prior taxable years attributable to qualified wages paid or
26 incurred with respect to that qualified disadvantaged individual.

27 (B) If the seasonal employment of any qualified disadvantaged
28 individual, with respect to whom qualified wages are taken into
29 account under subdivision (a) is not continued by the qualified
30 taxpayer for a period of 270 days of employment during the
31 60-month period beginning with the day the qualified
32 disadvantaged individual commences seasonal employment with
33 the qualified taxpayer, the tax imposed by this part, for the
34 taxable year that includes the 60th month following the month in
35 which the qualified disadvantaged individual commences
36 seasonal employment with the qualified taxpayer, shall be
37 increased by an amount equal to the credit allowed under
38 subdivision (a) for that taxable year and all prior taxable years
39 attributable to qualified wages paid or incurred with respect to
40 that qualified disadvantaged individual.

(2) (A) Subparagraph (A) of paragraph (1) does not apply to any of the following:

(i) A termination of employment of a qualified disadvantaged individual who voluntarily leaves the employment of the qualified taxpayer.

(ii) A termination of employment of a qualified disadvantaged individual who, before the close of the period referred to in subparagraph (A) of paragraph (1), becomes disabled to perform the services of that employment, unless that disability is removed before the close of that period and the taxpayer fails to offer reemployment to that individual.

(iii) A termination of employment of a qualified disadvantaged individual, if it is determined that the termination was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that individual.

(iv) A termination of employment of a qualified disadvantaged individual due to a substantial reduction in the trade or business operations of the qualified taxpayer.

(v) A termination of employment of a qualified disadvantaged individual, if that individual is replaced by other qualified disadvantaged individuals so as to create a net increase in both the number of employees and the hours of employment.

(B) Subparagraph (B) of paragraph (1) shall not apply to any of the following:

(i) A failure to continue the seasonal employment of a qualified disadvantaged individual who voluntarily fails to return to the seasonal employment of the qualified taxpayer.

(ii) A failure to continue the seasonal employment of a qualified disadvantaged individual who, before the close of the period referred to in subparagraph (B) of paragraph (1), becomes disabled and unable to perform the services of that seasonal employment, unless that disability is removed before the close of that period and the qualified taxpayer fails to offer seasonal employment to that qualified disadvantaged individual.

(iii) A failure to continue the seasonal employment of a qualified disadvantaged individual, if it is determined that the failure to continue the seasonal employment was due to the misconduct (as defined in Sections 1256-30 to 1256-43,

1 inclusive, of Title 22 of the California Code of Regulations) of
2 that qualified disadvantaged individual.

3 (iv) A failure to continue seasonal employment of a qualified
4 disadvantaged individual due to a substantial reduction in the
5 regular seasonal trade or business operations of the qualified
6 taxpayer.

7 (v) A failure to continue the seasonal employment of a
8 qualified disadvantaged individual, if that qualified
9 disadvantaged individual is replaced by other qualified
10 disadvantaged individuals so as to create a net increase in both
11 the number of seasonal employees and the hours of seasonal
12 employment.

13 (C) For purposes of paragraph (1), the employment
14 relationship between the qualified taxpayer and a qualified
15 disadvantaged individual shall not be treated as terminated by
16 reason of a mere change in the form of conducting the trade or
17 business of the qualified taxpayer, if the qualified disadvantaged
18 individual continues to be employed in that trade or business and
19 the qualified taxpayer retains a substantial interest in that trade or
20 business.

21 (3) Any increase in tax under paragraph (1) shall not be treated
22 as tax imposed by this part for purposes of determining the
23 amount of any credit allowable under this part.

24 (e) In the case of an estate or trust, both of the following
25 apply:

26 (1) The qualified wages for any taxable year shall be
27 apportioned between the estate or trust and the beneficiaries on
28 the basis of the income of the estate or trust allocable to each.

29 (2) Any beneficiary to whom any qualified wages have been
30 apportioned under paragraph (1) shall be treated (for purposes of
31 this part) as the employer with respect to those wages.

32 (f) The credit shall be reduced by the credit allowed under
33 Section 17053.7. The credit shall also be reduced by the federal
34 credit allowed under Section 51 of the Internal Revenue Code.

35 In addition, any deduction otherwise allowed under this part
36 for the wages or salaries paid or incurred by the qualified
37 taxpayer upon which the credit is based shall be reduced by the
38 amount of the credit, prior to any reduction required by
39 subdivision (g) or (h).

(g) In the case where the credit otherwise allowed under this section exceeds the “net tax” for the taxable year, that portion of the credit that exceeds the “net tax” may be carried over and added to the credit, if any, in succeeding years, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

(h) (1) The amount of credit otherwise allowed under this section, including prior year credit carryovers, that may reduce the “net tax” for the taxable year shall not exceed the amount of tax that would be imposed on the qualified taxpayer’s business income attributed to a Manufacturing Enhancement Area determined as if that attributed income represented all of the net income of the qualified taxpayer subject to tax under this part.

(2) Attributable income shall be that portion of the taxpayer’s California source business income that is apportioned to the Manufacturing Enhancement Area. For that purpose, the taxpayer’s business income that is attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101) of Part 11. That business income shall be further apportioned to the Manufacturing Enhancement Area in accordance with Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified for purposes of this section in accordance with paragraph (3).

(3) Income shall be apportioned to a Manufacturing Enhancement Area by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer’s real and tangible personal property owned or rented and used in the Manufacturing Enhancement Area during the taxable year, and the denominator of which is the average value of all the taxpayer’s real and tangible personal property owned or rented and used in this state during the taxable year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the Manufacturing Enhancement Area during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

1 (4) The portion of any credit remaining, if any, after
2 application of this subdivision, shall be carried over to
3 succeeding taxable years, as if it were an amount exceeding the
4 “net tax” for the taxable year, as provided in subdivision (g).

5 (i) If the taxpayer is allowed a credit pursuant to this section
6 for qualified wages paid or incurred, only one credit shall be
7 allowed to the taxpayer under this part with respect to any wage
8 consisting in whole or in part of those qualified wages.

9 (j) The qualified taxpayer shall do both of the following:

10 (1) Obtain from the Employment Development Department, as
11 permitted by federal law, the local county or city Job Training
12 Partnership Act administrative entity, the local county GAIN
13 office or social services agency, or the local government
14 administering the manufacturing enhancement area, a
15 certification that provides that a qualified disadvantaged
16 individual meets the eligibility requirements specified in
17 paragraph (5) of subdivision (b). The Employment Development
18 Department may provide preliminary screening and referral to a
19 certifying agency. The Department of Housing and Community
20 Development shall develop regulations governing the issuance of
21 certificates pursuant to subdivision (d) of Section 7086 of the
22 Government Code and shall develop forms for this purpose.

23 (2) Retain a copy of the certification and provide it upon
24 request to the Franchise Tax Board.

25 SEC. 9. Section 23622.8 of the Revenue and Taxation Code
26 is amended to read:

27 23622.8. (a) For each taxable year beginning on or after
28 January 1, 1998, there shall be allowed a credit against the “tax”
29 (as defined in Section 23036) to a qualified taxpayer for hiring a
30 qualified disadvantaged individual during the taxable year for
31 employment in the Manufacturing Enhancement Area. The credit
32 shall be equal to the sum of each of the following:

33 (1) Fifty percent of the qualified wages in the first year of
34 employment.

35 (2) Forty percent of the qualified wages in the second year of
36 employment.

37 (3) Thirty percent of the qualified wages in the third year of
38 employment.

39 (4) Twenty percent of the qualified wages in the fourth year of
40 employment.

1 (5) Ten percent of the qualified wages in the fifth year of
2 employment.

3 (b) For purposes of this section:

4 (1) “Qualified wages” means:

5 (A) That portion of wages paid or incurred by the qualified
6 taxpayer during the taxable year to qualified disadvantaged
7 individuals that does not exceed 150 percent of the minimum
8 wage.

9 (B) The total amount of qualified wages which may be taken
10 into account for purposes of claiming the credit allowed under
11 this section shall not exceed two million dollars (\$2,000,000) per
12 taxable year.

13 (C) Wages received during the 60-month period beginning
14 with the first day the qualified disadvantaged individual
15 commences employment with the qualified taxpayer.
16 Reemployment in connection with any increase, including a
17 regularly occurring seasonal increase, in the trade or business
18 operations of the qualified taxpayer does not constitute
19 commencement of employment for purposes of this section.

20 (D) Qualified wages do not include any wages paid or incurred
21 by the qualified taxpayer on or after the Manufacturing
22 Enhancement Area expiration date. However, wages paid or
23 incurred with respect to qualified employees who are employed
24 by the qualified taxpayer within the Manufacturing Enhancement
25 Area within the 60-month period prior to the Manufacturing
26 Enhancement Area expiration date shall continue to qualify for
27 the credit under this section after the Manufacturing
28 Enhancement Area expiration date, in accordance with all
29 provisions of this section applied as if the Manufacturing
30 Enhancement Area designation were still in existence and
31 binding.

32 (2) “Minimum wage” means the wage established by the
33 Industrial Welfare Commission as provided for in Chapter 1
34 (commencing with Section 1171) of Part 4 of Division 2 of the
35 Labor Code.

36 (3) “Manufacturing Enhancement Area” means an area
37 designated pursuant to Section 7073.8 of the Government Code
38 according to the procedures of Chapter 12.8 (commencing with
39 Section 7070) of Division 7 of Title 1 of the Government Code.

1 (4) “Manufacturing Enhancement Area expiration date” means
2 the date the Manufacturing Enhancement Area designation
3 expires, is no longer binding, or becomes inoperative.

4 (5) “Qualified disadvantaged individual” means an individual
5 who satisfies all of the following requirements:

6 (A) (i) At least 90 percent of whose services for the qualified
7 taxpayer during the taxable year are directly related to the
8 conduct of the qualified taxpayer’s trade or business located in a
9 Manufacturing Enhancement Area.

10 (ii) Who performs at least 50 percent of his or her services for
11 the qualified taxpayer during the taxable year in the
12 Manufacturing Enhancement Area.

13 (B) Who is hired by the qualified taxpayer after the
14 designation of the area as a Manufacturing Enhancement Area in
15 which the individual’s services were primarily performed.

16 (C) Who is any of the following immediately preceding the
17 individual’s commencement of employment with the qualified
18 taxpayer:

19 (i) An individual who has been determined eligible for
20 services under the federal Job Training Partnership Act (29
21 U.S.C. Sec. 1501 et seq.) or its successor.

22 (ii) Any voluntary or mandatory registrant under the Greater
23 Avenues for Independence Act of 1985, or its successor, as
24 provided pursuant to Article 3.2 (commencing with Section
25 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and
26 Institutions Code.

27 (iii) Any individual who has been certified eligible by the
28 Employment Development Department under the federal
29 Targeted Jobs Tax Credit Program, or its successor, whether or
30 not this program is in effect.

31 (6) “Qualified taxpayer” means any corporation engaged in a
32 trade or business within a Manufacturing Enhancement Area
33 designated pursuant to Section 7073.8 of the Government Code
34 and that meets all of the following requirements:

35 (A) Is engaged in those lines of business described in Codes
36 0211 to 0291, inclusive, Code 0723, or in Codes 2011 to 3999,
37 inclusive, of the Standard Industrial Classification (SIC) Manual
38 published by the United States Office of Management and
39 Budget, 1987 edition.

(B) At least 50 percent of the qualified taxpayer's workforce hired after the designation of the Manufacturing Enhancement Area is composed of individuals who, at the time of hire, are residents of the county in which the Manufacturing Enhancement Area is located.

(C) Of this percentage of local hires, at least 30 percent shall be qualified disadvantaged individuals.

(7) "Seasonal employment" means employment by a qualified taxpayer that has regular and predictable substantial reductions in trade or business operations.

(c) (1) For purposes of this section, all of the following apply:

(A) All employees of all corporations that are members of the same controlled group of corporations shall be treated as employed by a single qualified taxpayer.

(B) The credit (if any) allowable by this section with respect to each member shall be determined by reference to its proportionate share of the expenses of the qualified wages giving rise to the credit and shall be allocated in that manner.

(C) Principles that apply in the case of controlled groups of corporations, as specified in subdivision (d) of Section 23622.7, shall apply with respect to determining employment.

(2) If a qualified taxpayer acquires the major portion of a trade or business of another employer (hereinafter in this paragraph referred to as the "predecessor") or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section (other than subdivision (d)) for any calendar year ending after that acquisition, the employment relationship between a qualified disadvantaged individual and a qualified taxpayer shall not be treated as terminated if the qualified disadvantaged individual continues to be employed in that trade or business.

(d) (1) (A) If the employment, other than seasonal employment, of any qualified disadvantaged individual, with respect to whom qualified wages are taken into account under subdivision (b) is terminated by the qualified taxpayer at any time during the first 270 days of that employment (whether or not consecutive) or before the close of the 270th calendar day after the day in which that qualified disadvantaged individual completes 90 days of employment with the qualified taxpayer, the tax imposed by this part for the taxable year in which that

1 employment is terminated shall be increased by an amount equal
2 to the credit allowed under subdivision (a) for that taxable year
3 and all prior taxable years attributable to qualified wages paid or
4 incurred with respect to that qualified disadvantaged individual.

5 (B) If the seasonal employment of any qualified disadvantaged
6 individual, with respect to whom qualified wages are taken into
7 account under subdivision (a) is not continued by the qualified
8 taxpayer for a period of 270 days of employment during the
9 60-month period beginning with the day the qualified
10 disadvantaged individual commences seasonal employment with
11 the qualified taxpayer, the tax imposed by this part, for the
12 income year that includes the 60th month following the month in
13 which the qualified disadvantaged individual commences
14 seasonal employment with the qualified taxpayer, shall be
15 increased by an amount equal to the credit allowed under
16 subdivision (a) for that taxable year and all prior taxable years
17 attributable to qualified wages paid or incurred with respect to
18 that qualified disadvantaged individual.

19 (2) (A) Subparagraph (A) of paragraph (1) does not apply to
20 any of the following:

21 (i) A termination of employment of a qualified disadvantaged
22 individual who voluntarily leaves the employment of the
23 qualified taxpayer.

24 (ii) A termination of employment of a qualified disadvantaged
25 individual who, before the close of the period referred to in
26 subparagraph (A) of paragraph (1), becomes disabled to perform
27 the services of that employment, unless that disability is removed
28 before the close of that period and the qualified taxpayer fails to
29 offer reemployment to that individual.

30 (iii) A termination of employment of a qualified disadvantaged
31 individual, if it is determined that the termination was due to the
32 misconduct (as defined in Sections 1256-30 to 1256-43,
33 inclusive, of Title 22 of the California Code of Regulations) of
34 that individual.

35 (iv) A termination of employment of a qualified disadvantaged
36 individual due to a substantial reduction in the trade or business
37 operations of the qualified taxpayer.

38 (v) A termination of employment of a qualified disadvantaged
39 individual, if that individual is replaced by other qualified

1 disadvantaged individuals so as to create a net increase in both
2 the number of employees and the hours of employment.

3 (B) Subparagraph (B) of paragraph (1) shall not apply to any
4 of the following:

5 (i) A failure to continue the seasonal employment of a
6 qualified disadvantaged individual who voluntarily fails to return
7 to the seasonal employment of the qualified taxpayer.

8 (ii) A failure to continue the seasonal employment of a
9 qualified disadvantaged individual who, before the close of the
10 period referred to in subparagraph (B) of paragraph (1), becomes
11 disabled and unable to perform the services of that seasonal
12 employment, unless that disability is removed before the close of
13 that period and the qualified taxpayer fails to offer seasonal
14 employment to that qualified disadvantaged individual.

15 (iii) A failure to continue the seasonal employment of a
16 qualified disadvantaged individual, if it is determined that the
17 failure to continue the seasonal employment was due to the
18 misconduct (as defined in Sections 1256-30 to 1256-43,
19 inclusive, of Title 22 of the California Code of Regulations) of
20 that qualified disadvantaged individual.

21 (iv) A failure to continue seasonal employment of a qualified
22 disadvantaged individual due to a substantial reduction in the
23 regular seasonal trade or business operations of the qualified
24 taxpayer.

25 (v) A failure to continue the seasonal employment of a
26 qualified disadvantaged individual, if that qualified
27 disadvantaged individual is replaced by other qualified
28 disadvantaged individuals so as to create a net increase in both
29 the number of seasonal employees and the hours of seasonal
30 employment.

31 (C) For purposes of paragraph (1), the employment
32 relationship between the qualified taxpayer and a qualified
33 disadvantaged individual shall not be treated as terminated by
34 either of the following:

35 (i) By a transaction to which Section 381(a) of the Internal
36 Revenue Code applies, if the qualified disadvantaged individual
37 continues to be employed by the acquiring corporation.

38 (ii) By reason of a mere change in the form of conducting the
39 trade or business of the qualified taxpayer, if the qualified
40 disadvantaged individual continues to be employed in that trade

1 or business and the qualified taxpayer retains a substantial
2 interest in that trade or business.

3 (3) Any increase in tax under paragraph (1) shall not be treated
4 as tax imposed by this part for purposes of determining the
5 amount of any credit allowable under this part.

6 (e) The credit shall be reduced by the credit allowed under
7 Section 23621. The credit shall also be reduced by the federal
8 credit allowed under Section 51 of the Internal Revenue Code.

9 In addition, any deduction otherwise allowed under this part
10 for the wages or salaries paid or incurred by the qualified
11 taxpayer upon which the credit is based shall be reduced by the
12 amount of the credit, prior to any reduction required by
13 subdivision (f) or (g).

14 (f) In the case where the credit otherwise allowed under this
15 section exceeds the “tax” for the taxable year, that portion of the
16 credit that exceeds the “tax” may be carried over and added to
17 the credit, if any, in succeeding years, until the credit is
18 exhausted. The credit shall be applied first to the earliest taxable
19 years possible.

20 (g) (1) The amount of credit otherwise allowed under this
21 section, including prior year credit carryovers, that may reduce
22 the “tax” for the taxable year shall not exceed the amount of tax
23 that would be imposed on the qualified taxpayer’s business
24 income attributed to a Manufacturing Enhancement Area
25 determined as if that attributed income represented all of the net
26 income of the qualified taxpayer subject to tax under this part.

27 (2) Attributable income is that portion of the taxpayer’s
28 California source business income that is apportioned to the
29 Manufacturing Enhancement Area. For that purpose, the
30 taxpayer’s business income attributable to sources in this state
31 first shall be determined in accordance with Chapter 17
32 (commencing with Section 25101). That business income shall
33 be further apportioned to the Manufacturing Enhancement Area
34 in accordance with Article 2 (commencing with Section 25120)
35 of Chapter 17, modified for purposes of this section in
36 accordance with paragraph (3).

37 (3) Income shall be apportioned to a Manufacturing
38 Enhancement Area by multiplying the total California business
39 income of the taxpayer by a fraction, the numerator of which is

1 the property factor plus the payroll factor, and the denominator of
2 which is two. For the purposes of this paragraph:

3 (A) The property factor is a fraction, the numerator of which is
4 the average value of the taxpayer's real and tangible personal
5 property owned or rented and used in the Manufacturing
6 Enhancement Area during the taxable year, and the denominator
7 of which is the average value of all the taxpayer's real and
8 tangible personal property owned or rented and used in this state
9 during the taxable year.

10 (B) The payroll factor is a fraction, the numerator of which is
11 the total amount paid by the taxpayer in the Manufacturing
12 Enhancement Area during the taxable year for compensation, and
13 the denominator of which is the total compensation paid by the
14 taxpayer in this state during the taxable year.

15 (4) The portion of any credit remaining, if any, after
16 application of this subdivision, shall be carried over to
17 succeeding taxable years, as if it were an amount exceeding the
18 "tax" for the taxable year, as provided in subdivision (g).

19 (h) If the taxpayer is allowed a credit pursuant to this section
20 for qualified wages paid or incurred, only one credit shall be
21 allowed to the taxpayer under this part with respect to any wage
22 consisting in whole or in part of those qualified wages.

23 (i) The qualified taxpayer shall do both of the following:

24 (1) Obtain from the Employment Development Department, as
25 permitted by federal law, the local county or city Job Training
26 Partnership Act administrative entity, the local county GAIN
27 office or social services agency, or the local government
28 administering the manufacturing enhancement area, a
29 certification that provides that a qualified disadvantaged
30 individual meets the eligibility requirements specified in
31 paragraph (5) of subdivision (b). The Employment Development
32 Department may provide preliminary screening and referral to a
33 certifying agency. The Department of Housing and Community
34 Development shall develop regulations governing the issuance of
35 certificates pursuant to subdivision (d) of Section 7086 of the
36 Government Code and shall develop forms for this purpose.

37 (2) Retain a copy of the certification and provide it upon
38 request to the Franchise Tax Board.

39 SEC. 10. Section 23634 of the Revenue and Taxation Code is
40 amended to read:

1 23634. (a) For each taxable year beginning on or after
2 January 1, 1998, there shall be allowed a credit against the “tax”
3 (as defined by Section 23036) to a qualified taxpayer who
4 employs a qualified employee in a targeted tax area during the
5 taxable year. The credit shall be equal to the sum of each of the
6 following:

7 (1) Fifty percent of qualified wages in the first year of
8 employment.

9 (2) Forty percent of qualified wages in the second year of
10 employment.

11 (3) Thirty percent of qualified wages in the third year of
12 employment.

13 (4) Twenty percent of qualified wages in the fourth year of
14 employment.

15 (5) Ten percent of qualified wages in the fifth year of
16 employment.

17 (b) For purposes of this section:

18 (1) “Qualified wages” means:

19 (A) That portion of wages paid or incurred by the qualified
20 taxpayer during the taxable year to qualified employees that does
21 not exceed 150 percent of the minimum wage.

22 (B) Wages received during the 60-month period beginning
23 with the first day the employee commences employment with the
24 qualified taxpayer. Reemployment in connection with any
25 increase, including a regularly occurring seasonal increase, in the
26 trade or business operations of the qualified taxpayer does not
27 constitute commencement of employment for purposes of this
28 section.

29 (C) Qualified wages do not include any wages paid or incurred
30 by the qualified taxpayer on or after the targeted tax area
31 expiration date. However, wages paid or incurred with respect to
32 qualified employees who are employed by the qualified taxpayer
33 within the targeted tax area within the 60-month period prior to
34 the targeted tax area expiration date shall continue to qualify for
35 the credit under this section after the targeted tax area expiration
36 date, in accordance with all provisions of this section applied as
37 if the targeted tax area designation were still in existence and
38 binding.

39 (2) “Minimum wage” means the wage established by the
40 Industrial Welfare Commission as provided for in Chapter 1

1 (commencing with Section 1171) of Part 4 of Division 2 of the
2 Labor Code.

3 (3) “Targeted tax area expiration date” means the date the
4 targeted tax area designation expires, is revoked, is no longer
5 binding, or becomes inoperative.

6 (4) (A) “Qualified employee” means an individual who meets
7 all of the following requirements:

8 (i) At least 90 percent of his or her services for the qualified
9 taxpayer during the taxable year are directly related to the
10 conduct of the qualified taxpayer’s trade or business located in a
11 targeted tax area.

12 (ii) Performs at least 50 percent of his or her services for the
13 qualified taxpayer during the taxable year in a targeted tax area.

14 (iii) Is hired by the qualified taxpayer after the date of original
15 designation of the area in which services were performed as a
16 targeted tax area.

17 (iv) Is any of the following:

18 (I) Immediately preceding the qualified employee’s
19 commencement of employment with the qualified taxpayer, was
20 a person eligible for services under the federal Job Training
21 Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor,
22 who is receiving, or is eligible to receive, subsidized
23 employment, training, or services funded by the federal Job
24 Training Partnership Act, or its successor.

25 (II) Immediately preceding the qualified employee’s
26 commencement of employment with the qualified taxpayer, was
27 a person eligible to be a voluntary or mandatory registrant under
28 the Greater Avenues for Independence Act of 1985 (GAIN)
29 provided for pursuant to Article 3.2 (commencing with Section
30 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and
31 Institutions Code, or its successor.

32 (III) Immediately preceding the qualified employee’s
33 commencement of employment with the qualified taxpayer, was
34 an economically disadvantaged individual 14 years of age or
35 older.

36 (IV) Immediately preceding the qualified employee’s
37 commencement of employment with the qualified taxpayer, was
38 a dislocated worker who meets any of the following:

39 (aa) Has been terminated or laid off or who has received a
40 notice of termination or layoff from employment, is eligible for

1 or has exhausted entitlement to unemployment insurance
2 benefits, and is unlikely to return to his or her previous industry
3 or occupation.

4 (bb) Has been terminated or has received a notice of
5 termination of employment as a result of any permanent closure
6 or any substantial layoff at a plant, facility, or enterprise,
7 including an individual who has not received written notification
8 but whose employer has made a public announcement of the
9 closure or layoff.

10 (cc) Is long-term unemployed and has limited opportunities for
11 employment or reemployment in the same or a similar
12 occupation in the area in which the individual resides, including
13 an individual 55 years of age or older who may have substantial
14 barriers to employment by reason of age.

15 (dd) Was self-employed (including farmers and ranchers) and
16 is unemployed as a result of general economic conditions in the
17 community in which he or she resides or because of natural
18 disasters.

19 (ee) Was a civilian employee of the Department of Defense
20 employed at a military installation being closed or realigned
21 under the Defense Base Closure and Realignment Act of 1990.

22 (ff) Was an active member of the Armed Forces or National
23 Guard as of September 30, 1990, and was either involuntarily
24 separated or separated pursuant to a special benefits program.

25 (gg) Is a seasonal or migrant worker who experiences chronic
26 seasonal unemployment and underemployment in the agriculture
27 industry, aggravated by continual advancements in technology
28 and mechanization.

29 (hh) Has been terminated or laid off, or has received a notice
30 of termination or layoff, as a consequence of compliance with the
31 Clean Air Act.

32 (V) Immediately preceding the qualified employee's
33 commencement of employment with the qualified taxpayer, was
34 a disabled individual who is eligible for or enrolled in, or has
35 completed a state rehabilitation plan or is a service-connected
36 disabled veteran, veteran of the Vietnam era, or veteran who is
37 recently separated from military service.

38 (VI) Immediately preceding the qualified employee's
39 commencement of employment with the qualified taxpayer, was
40 an ex-offender. An individual shall be treated as convicted if he

1 or she was placed on probation by a state court without a finding
2 of guilty.

3 (VII) Immediately preceding the qualified employee's
4 commencement of employment with the qualified taxpayer, was
5 a person eligible for or a recipient of any of the following:

6 (aa) Federal Supplemental Security Income benefits.

7 (bb) Aid to Families with Dependent Children.

8 (cc) Food stamps.

9 (dd) State and local general assistance.

10 (VIII) Immediately preceding the qualified employee's
11 commencement of employment with the qualified taxpayer, was
12 a member of a federally recognized Indian tribe, band, or other
13 group of Native American descent.

14 (IX) Immediately preceding the qualified employee's
15 commencement of employment with the qualified taxpayer, was
16 a resident of a targeted tax area.

17 (X) Immediately preceding the qualified employee's
18 commencement of employment with the taxpayer, was a member
19 of a targeted group, as defined in Section 51(d) of the Internal
20 Revenue Code, or its successor.

21 (B) Priority for employment shall be provided to an individual
22 who is enrolled in a qualified program under the federal Job
23 Training Partnership Act or the Greater Avenues for
24 Independence Act of 1985 or who is eligible as a member of a
25 targeted group under the Work Opportunity Tax Credit (Section
26 51 of the Internal Revenue Code), or its successor.

27 (5) (A) "Qualified taxpayer" means a person or entity that
28 meets both of the following:

29 (i) Is engaged in a trade or business within a targeted tax area
30 designated pursuant to Chapter 12.93 (commencing with Section
31 7097) of Division 7 of Title 1 of the Government Code.

32 (ii) Is engaged in those lines of business described in Codes
33 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,
34 inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive,
35 of the Standard Industrial Classification (SIC) Manual published
36 by the United States Office of Management and Budget, 1987
37 edition.

38 (B) In the case of any passthrough entity, the determination of
39 whether a taxpayer is a qualified taxpayer under this section shall
40 be made at the entity level and any credit under this section or

1 Section 17053.34 shall be allowed to the passthrough entity and
2 passed through to the partners or shareholders in accordance with
3 applicable provisions of this part or Part 10 (commencing with
4 Section 17001). For purposes of this subparagraph, the term “
5 passthrough entity” means any partnership or S corporation.

6 (6) “Seasonal employment” means employment by a qualified
7 taxpayer that has regular and predictable substantial reductions in
8 trade or business operations.

9 (c) If the qualified taxpayer is allowed a credit for qualified
10 wages pursuant to this section, only one credit shall be allowed to
11 the taxpayer under this part with respect to those qualified wages.

12 (d) The qualified taxpayer shall do both of the following:

13 (1) Obtain from the Employment Development Department, as
14 permitted by federal law, the local county or city Job Training
15 Partnership Act administrative entity, the local county GAIN
16 office or social services agency, or the local government
17 administering the targeted tax area, a certification that provides
18 that a qualified employee meets the eligibility requirements
19 specified in clause (iv) of subparagraph (A) of paragraph (4) of
20 subdivision (b). The Employment Development Department may
21 provide preliminary screening and referral to a certifying agency.
22 The Department of Housing and Community Development shall
23 develop regulations governing the issuance of certificates
24 pursuant to subdivision (g) of Section 7097 of the Government
25 Code and shall develop forms for this purpose.

26 (2) Retain a copy of the certification and provide it upon
27 request to the Franchise Tax Board.

28 (e) (1) For purposes of this section:

29 (A) All employees of all corporations that are members of the
30 same controlled group of corporations shall be treated as
31 employed by a single taxpayer.

32 (B) The credit, if any, allowable by this section to each
33 member shall be determined by reference to its proportionate
34 share of the expense of the qualified wages giving rise to the
35 credit, and shall be allocated in that manner.

36 (C) For purposes of this subdivision, “controlled group of
37 corporations” means “controlled group of corporations” as
38 defined in Section 1563(a) of the Internal Revenue Code, except
39 that:

1 (i) “More than 50 percent” shall be substituted for “at least 80
2 percent” each place it appears in Section 1563(a)(1) of the
3 Internal Revenue Code.

4 (ii) The determination shall be made without regard to
5 subsections (a)(4) and (e)(3)(C) of Section 1563 of the Internal
6 Revenue Code.

7 (2) If an employer acquires the major portion of a trade or
8 business of another employer (hereinafter in this paragraph
9 referred to as the “predecessor”) or the major portion of a
10 separate unit of a trade or business of a predecessor, then, for
11 purposes of applying this section (other than subdivision (f)) for
12 any calendar year ending after that acquisition, the employment
13 relationship between a qualified employee and an employer shall
14 not be treated as terminated if the employee continues to be
15 employed in that trade or business.

16 (f) (1) (A) If the employment, other than seasonal
17 employment, of any qualified employee with respect to whom
18 qualified wages are taken into account under subdivision (a) is
19 terminated by the qualified taxpayer at any time during the first
20 270 days of that employment (whether or not consecutive) or
21 before the close of the 270th calendar day after the day in which
22 that employee completes 90 days of employment with the
23 qualified taxpayer, the tax imposed by this part for the taxable
24 year in which that employment is terminated shall be increased
25 by an amount equal to the credit allowed under subdivision (a)
26 for that taxable year and all prior taxable years attributable to
27 qualified wages paid or incurred with respect to that employee.

28 (B) If the seasonal employment of any qualified employee,
29 with respect to whom qualified wages are taken into account
30 under subdivision (a) is not continued by the qualified taxpayer
31 for a period of 270 days of employment during the 60-month
32 period beginning with the day the qualified employee
33 commences seasonal employment with the qualified taxpayer,
34 the tax imposed by this part, for the taxable year that includes the
35 60th month following the month in which the qualified employee
36 commences seasonal employment with the qualified taxpayer,
37 shall be increased by an amount equal to the credit allowed under
38 subdivision (a) for that taxable year and all prior taxable years
39 attributable to qualified wages paid or incurred with respect to
40 that qualified employee.

1 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to
2 any of the following:

3 (i) A termination of employment of a qualified employee who
4 voluntarily leaves the employment of the qualified taxpayer.

5 (ii) A termination of employment of a qualified employee
6 who, before the close of the period referred to in subparagraph
7 (A) of paragraph (1), becomes disabled and unable to perform the
8 services of that employment, unless that disability is removed
9 before the close of that period and the qualified taxpayer fails to
10 offer reemployment to that employee.

11 (iii) A termination of employment of a qualified employee, if
12 it is determined that the termination was due to the misconduct
13 (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22
14 of the California Code of Regulations) of that employee.

15 (iv) A termination of employment of a qualified employee due
16 to a substantial reduction in the trade or business operations of
17 the taxpayer.

18 (v) A termination of employment of a qualified employee, if
19 that employee is replaced by other qualified employees so as to
20 create a net increase in both the number of employees and the
21 hours of employment.

22 (B) Subparagraph (B) of paragraph (1) shall not apply to any
23 of the following:

24 (i) A failure to continue the seasonal employment of a
25 qualified employee who voluntarily fails to return to the seasonal
26 employment of the qualified taxpayer.

27 (ii) A failure to continue the seasonal employment of a
28 qualified employee who, before the close of the period referred to
29 in subparagraph (B) of paragraph (1), becomes disabled and
30 unable to perform the services of that seasonal employment,
31 unless that disability is removed before the close of that period
32 and the qualified taxpayer fails to offer seasonal employment to
33 that qualified employee.

34 (iii) A failure to continue the seasonal employment of a
35 qualified employee, if it is determined that the failure to continue
36 the seasonal employment was due to the misconduct (as defined
37 in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the
38 California Code of Regulations) of that qualified employee.

1 (iv) A failure to continue seasonal employment of a qualified
2 employee due to a substantial reduction in the regular seasonal
3 trade or business operations of the qualified taxpayer.

4 (v) A failure to continue the seasonal employment of a
5 qualified employee, if that qualified employee is replaced by
6 other qualified employees so as to create a net increase in both
7 the number of seasonal employees and the hours of seasonal
8 employment.

9 (C) For purposes of paragraph (1), the employment
10 relationship between the qualified taxpayer and a qualified
11 employee shall not be treated as terminated by either of the
12 following:

13 (i) By a transaction to which Section 381(a) of the Internal
14 Revenue Code applies, if the qualified employee continues to be
15 employed by the acquiring corporation.

16 (ii) By reason of a mere change in the form of conducting the
17 trade or business of the qualified taxpayer, if the qualified
18 employee continues to be employed in that trade or business and
19 the qualified taxpayer retains a substantial interest in that trade or
20 business.

21 (3) Any increase in tax under paragraph (1) shall not be treated
22 as tax imposed by this part for purposes of determining the
23 amount of any credit allowable under this part.

24 (g) Rules similar to the rules provided in Sections 46(e) and
25 (h) of the Internal Revenue Code shall apply to both of the
26 following:

27 (1) An organization to which Section 593 of the Internal
28 Revenue Code applies.

29 (2) A regulated investment company or a real estate
30 investment trust subject to taxation under this part.

31 (h) For purposes of this section, “targeted tax area” means an
32 area designated pursuant to Chapter 12.93 (commencing with
33 Section 7097) of Division 7 of Title 1 of the Government Code.

34 (i) In the case where the credit otherwise allowed under this
35 section exceeds the “tax” for the taxable year, that portion of the
36 credit that exceeds the “tax” may be carried over and added to
37 the credit, if any, in succeeding taxable years, until the credit is
38 exhausted. The credit shall be applied first to the earliest taxable
39 years possible.

1 (j) (1) The amount of the credit otherwise allowed under this
2 section and Section 23633, including any credit carryover from
3 prior years, that may reduce the “tax” for the taxable year shall
4 not exceed the amount of tax that would be imposed on the
5 qualified taxpayer’s business income attributable to the targeted
6 tax area determined as if that attributable income represented all
7 of the income of the qualified taxpayer subject to tax under this
8 part.

9 (2) Attributable income shall be that portion of the taxpayer’s
10 California source business income that is apportioned to the
11 targeted tax area. For that purpose, the taxpayer’s business
12 income attributable to sources in this state first shall be
13 determined in accordance with Chapter 17 (commencing with
14 Section 25101). That business income shall be further
15 apportioned to the targeted tax area in accordance with Article 2
16 (commencing with Section 25120) of Chapter 17, modified for
17 purposes of this section in accordance with paragraph (3).

18 (3) Business income shall be apportioned to the targeted tax
19 area by multiplying the total California business income of the
20 taxpayer by a fraction, the numerator of which is the property
21 factor plus the payroll factor, and the denominator of which is
22 two. For purposes of this paragraph:

23 (A) The property factor is a fraction, the numerator of which is
24 the average value of the taxpayer’s real and tangible personal
25 property owned or rented and used in the targeted tax area during
26 the taxable year, and the denominator of which is the average
27 value of all the taxpayer’s real and tangible personal property
28 owned or rented and used in this state during the taxable year.

29 (B) The payroll factor is a fraction, the numerator of which is
30 the total amount paid by the taxpayer in the targeted tax area
31 during the taxable year for compensation, and the denominator of
32 which is the total compensation paid by the taxpayer in this state
33 during the taxable year.

34 (4) The portion of any credit remaining, if any, after
35 application of this subdivision, shall be carried over to
36 succeeding taxable years, as if it were an amount exceeding the
37 “tax” for the taxable year, as provided in subdivision (h).

38 (5) In the event that a credit carryover is allowable under
39 subdivision (h) for any taxable year after the targeted tax area
40 designation has expired or been revoked, the targeted tax area

1 shall be deemed to remain in existence for purposes of
2 computing the limitation specified in this subdivision.

3 SEC. 11. Section 23646 of the Revenue and Taxation Code is
4 amended to read:

5 23646. (a) For each taxable year beginning on or after
6 January 1, 1995, there shall be allowed as a credit against the
7 “tax” (as defined in Section 23036) to a qualified taxpayer for
8 hiring a qualified disadvantaged individual or a qualified
9 displaced employee during the taxable year for employment in
10 the LAMBRA. The credit shall be equal to the sum of each of the
11 following:

12 (1) Fifty percent of the qualified wages in the first year of
13 employment.

14 (2) Forty percent of the qualified wages in the second year of
15 employment.

16 (3) Thirty percent of the qualified wages in the third year of
17 employment.

18 (4) Twenty percent of the qualified wages in the fourth year of
19 employment.

20 (5) Ten percent of the qualified wages in the fifth year of
21 employment.

22 (b) For purposes of this section:

23 (1) “Qualified wages” means:

24 (A) That portion of wages paid or incurred by the employer
25 during the taxable year to qualified disadvantaged individuals or
26 qualified displaced employees that does not exceed 150 percent
27 of the minimum wage.

28 (B) The total amount of qualified wages which may be taken
29 into account for purposes of claiming the credit allowed under
30 this section shall not exceed two million dollars (\$2,000,000) per
31 taxable year.

32 (C) Wages received during the 60-month period beginning
33 with the first day the individual commences employment with the
34 taxpayer. Reemployment in connection with any increase,
35 including a regularly occurring seasonal increase, in the trade or
36 business operation of the qualified taxpayer does not constitute
37 commencement of employment for purposes of this section.

38 (D) Qualified wages do not include any wages paid or incurred
39 by the qualified taxpayer on or after the LAMBRA expiration
40 date. However, wages paid or incurred with respect to qualified

1 disadvantaged individuals or qualified displaced employees who
2 are employed by the qualified taxpayer within the LAMBRA
3 within the 60-month period prior to the LAMBRA expiration
4 date shall continue to qualify for the credit under this section
5 after the LAMBRA expiration date, in accordance with all
6 provisions of this section applied as if the LAMBRA designation
7 were still in existence and binding.

8 (2) “Minimum wage” means the wage established by the
9 Industrial Welfare Commission as provided for in Chapter 1
10 (commencing with Section 1171) of Part 4 of Division 2 of the
11 Labor Code.

12 (3) “LAMBRA” means a local agency military base recovery
13 area designated in accordance with the provisions of Section
14 7114 of the Government Code.

15 (4) “Qualified disadvantaged individual” means an individual
16 who satisfies all of the following requirements:

17 (A) (i) At least 90 percent of whose services for the taxpayer
18 during the taxable year are directly related to the conduct of the
19 taxpayer’s trade or business located in a LAMBRA.

20 (ii) Who performs at least 50 percent of his or her services for
21 the taxpayer during the taxable year in the LAMBRA.

22 (B) Who is hired by the employer after the designation of the
23 area as a LAMBRA in which the individual’s services were
24 primarily performed.

25 (C) Who is any of the following immediately preceding the
26 individual’s commencement of employment with the taxpayer:

27 (i) An individual who has been determined eligible for
28 services under the federal Job Training Partnership Act (29
29 U.S.C. Sec. 1501 et seq.), or its successor.

30 (ii) Any voluntary or mandatory registrant under the Greater
31 Avenues for Independence Act of 1985 provided for pursuant to
32 Article 3.2 (commencing with Section 11320) of Chapter 2 of
33 Part 3 of Division 9 of the Welfare and Institutions Code.

34 (iii) An economically disadvantaged individual age 16 years or
35 older.

36 (iv) A dislocated worker who meets any of the following
37 conditions:

38 (I) Has been terminated or laid off or who has received a
39 notice of termination or layoff from employment, is eligible for
40 or has exhausted entitlement to unemployment insurance

1 benefits, and is unlikely to return to his or her previous industry
2 or occupation.

3 (II) Has been terminated or has received a notice of
4 termination of employment as a result of any permanent closure
5 or any substantial layoff at a plant, facility, or enterprise,
6 including an individual who has not received written notification
7 but whose employer has made a public announcement of ~~such a~~
8 *the* closure or layoff.

9 (III) Is long-term unemployed and has limited opportunities
10 for employment or reemployment in the same or a similar
11 occupation in the area in which the individual resides, including
12 an individual 55 years of age or older who may have substantial
13 barriers to employment by reason of age.

14 (IV) Was self-employed (including farmers and ranchers) and
15 is unemployed as a result of general economic conditions in the
16 community in which he or she resides or because of natural
17 disasters.

18 (V) Was a civilian employee of the Department of Defense
19 employed at a military installation being closed or realigned
20 under the Defense Base Closure and Realignment Act of 1990.

21 (VI) Was an active member of the Armed Forces or National
22 Guard as of September 30, 1990, and was either involuntarily
23 separated or separated pursuant to a special benefits program.

24 (VII) Experiences chronic seasonal unemployment and
25 underemployment in the agriculture industry, aggravated by
26 continual advancements in technology and mechanization.

27 (VIII) Has been terminated or laid off or has received a notice
28 of termination or layoff as a consequence of compliance with the
29 Clean Air Act.

30 (v) An individual who is enrolled in or has completed a state
31 rehabilitation plan or is a service-connected disabled veteran,
32 veteran of the Vietnam era, or veteran who is recently separated
33 from military service.

34 (vi) An ex-offender. An individual shall be treated as
35 convicted if he or she was placed on probation by a state court
36 without a finding of guilty.

37 (vii) A recipient of:

38 (I) Federal Supplemental Security Income benefits.

39 (II) Aid to Families with Dependent Children.

40 (III) Food stamps.

1 (IV) State and local general assistance.

2 (viii) Is a member of a federally recognized Indian tribe, band,
3 or other group of Native American descent.

4 (5) “Qualified taxpayer” means a corporation that conducts a
5 trade or business within a LAMBRA and, for the first two
6 taxable years, has a net increase in jobs (defined as 2,000 paid
7 hours per employee per year) of one or more employees as
8 determined below in the LAMBRA.

9 (A) The net increase in the number of jobs shall be determined
10 by subtracting the total number of full-time employees (defined
11 as 2,000 paid hours per employee per year) the taxpayer
12 employed in this state in the taxable year prior to commencing
13 business operations in the LAMBRA from the total number of
14 full-time employees the taxpayer employed in this state during
15 the second taxable year after commencing business operations in
16 the LAMBRA. For taxpayers who commence doing business in
17 this state with their LAMBRA business operation, the number of
18 employees for the taxable year prior to commencing business
19 operations in the LAMBRA shall be zero. If the taxpayer has a
20 net increase in jobs in the state, the credit shall be allowed only if
21 one or more full-time employees is employed within the
22 LAMBRA.

23 (B) The total number of employees employed in the
24 LAMBRA shall equal the sum of both of the following:

25 (i) The total number of hours worked in the LAMBRA for the
26 taxpayer by employees (not to exceed 2,000 hours per employee)
27 who are paid an hourly wage divided by 2,000.

28 (ii) The total number of months worked in the LAMBRA for
29 the taxpayer by employees who are salaried employees divided
30 by 12.

31 (C) In the case of a qualified taxpayer that first commences
32 doing business in the LAMBRA during the taxable year, for
33 purposes of clauses (i) and (ii), respectively, of subparagraph (B)
34 the divisors “2,000” and “12” shall be multiplied by a fraction,
35 the numerator of which is the number of months of the taxable
36 year that the taxpayer was doing business in the LAMBRA and
37 the denominator of which is 12.

38 (6) “Qualified displaced employee” means an individual who
39 satisfies all of the following requirements:

1 (A) Any civilian or military employee of a base or former base
2 that has been displaced as a result of a federal base closure act.

3 (B) (i) At least 90 percent of whose services for the taxpayer
4 during the taxable year are directly related to the conduct of the
5 taxpayer's trade or business located in a LAMBRA.

6 (ii) Who performs at least 50 percent of his or her services for
7 the taxpayer during the taxable year in a LAMBRA.

8 (C) Who is hired by the employer after the designation of the
9 area in which services were performed as a LAMBRA.

10 (7) "Seasonal employment" means employment by a qualified
11 taxpayer that has regular and predictable substantial reductions in
12 trade or business operations.

13 (8) "LAMBRA expiration date" means the date the LAMBRA
14 designation expires, is no longer binding, or becomes
15 inoperative.

16 (c) For qualified disadvantaged individuals or qualified
17 displaced employees hired on or after January 1, 2001, the
18 taxpayer shall do both of the following:

19 (1) Obtain from the Employment Development Department, as
20 permitted by federal law, the administrative entity of the local
21 county or city for the federal Job Training Partnership Act, or its
22 successor, the local county GAIN office or social services
23 agency, or the local government administering the LAMBRA, a
24 certification that provides that a qualified disadvantaged
25 individual or qualified displaced employee meets the eligibility
26 requirements specified in subparagraph (C) of paragraph (4) of
27 subdivision (b) or subparagraph (A) of paragraph (6) of
28 subdivision (b). The Employment Development Department may
29 provide preliminary screening and referral to a certifying agency.
30 The Department of Housing and Community Development shall
31 develop regulations governing the issuance of certificates
32 pursuant to Section 7114.2 of the Government Code and shall
33 develop forms for this purpose.

34 (2) Retain a copy of the certification and provide it upon
35 request to the Franchise Tax Board.

36 (d) (1) For purposes of this section, both of the following
37 apply:

38 (A) All employees of all corporations that are members of the
39 same controlled group of corporations shall be treated as
40 employed by a single employer.

1 (B) The credit (if any) allowable by this section to each
2 member shall be determined by reference to its proportionate
3 share of the qualified wages giving rise to the credit.

4 (2) For purposes of this subdivision, “controlled group of
5 corporations” has the meaning given to that term by Section
6 1563(a) of the Internal Revenue Code, except that both of the
7 following apply:

8 (A) “More than 50 percent” shall be substituted for “at least 80
9 percent” each place it appears in Section 1563(a)(1) of the
10 Internal Revenue Code.

11 (B) The determination shall be made without regard to Section
12 1563(a)(4) and Section 1563(e)(3)(C) of the Internal Revenue
13 Code.

14 (3) If an employer acquires the major portion of a trade or
15 business of another employer (hereinafter in this paragraph
16 referred to as the “predecessor”) or the major portion of a
17 separate unit of a trade or business of a predecessor, then, for
18 purposes of applying this section (other than subdivision (e)) for
19 any calendar year ending after that acquisition, the employment
20 relationship between an employee and an employer shall not be
21 treated as terminated if the employee continues to be employed
22 in that trade or business.

23 (e) (1) (A) If the employment of any employee, other than
24 seasonal employment, with respect to whom qualified wages are
25 taken into account under subdivision (a) is terminated by the
26 taxpayer at any time during the first 270 days of that employment
27 (whether or not consecutive) or before the close of the 270th
28 calendar day after the day in which that employee completes 90
29 days of employment with the taxpayer, the tax imposed by this
30 part for the taxable year in which that employment is terminated
31 shall be increased by an amount equal to the credit allowed under
32 subdivision (a) for that taxable year and all prior income years
33 attributable to qualified wages paid or incurred with respect to
34 that employee.

35 (B) If the seasonal employment of any qualified disadvantaged
36 individual, with respect to whom qualified wages are taken into
37 account under subdivision (a) is not continued by the qualified
38 taxpayer for a period of 270 days of employment during the
39 60-month period beginning with the day the qualified
40 disadvantaged individual commences seasonal employment with

1 the qualified taxpayer, the tax imposed by this part, for the
2 taxable year that includes the 60th month following the month in
3 which the qualified disadvantaged individual commences
4 seasonal employment with the qualified taxpayer, shall be
5 increased by an amount equal to the credit allowed under
6 subdivision (a) for that taxable year and all prior taxable years
7 attributable to qualified wages paid or incurred with respect to
8 that qualified disadvantaged individual.

9 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to
10 any of the following:

11 (i) A termination of employment of an employee who
12 voluntarily leaves the employment of the taxpayer.

13 (ii) A termination of employment of an individual who, before
14 the close of the period referred to in paragraph (1), becomes
15 disabled to perform the services of that employment, unless that
16 disability is removed before the close of that period and the
17 taxpayer fails to offer reemployment to that individual.

18 (iii) A termination of employment of an individual, if it is
19 determined that the termination was due to the misconduct (as
20 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
21 the California Code of Regulations) of that individual.

22 (iv) A termination of employment of an individual due to a
23 substantial reduction in the trade or business operations of the
24 taxpayer.

25 (v) A termination of employment of an individual, if that
26 individual is replaced by other qualified employees so as to
27 create a net increase in both the number of employees and the
28 hours of employment.

29 (B) Subparagraph (B) of paragraph (1) shall not apply to any
30 of the following:

31 (i) A failure to continue the seasonal employment of a
32 qualified disadvantaged individual who voluntarily fails to return
33 to the seasonal employment of the qualified taxpayer.

34 (ii) A failure to continue the seasonal employment of a
35 qualified disadvantaged individual who, before the close of the
36 period referred to in subparagraph (B) of paragraph (1), becomes
37 disabled and unable to perform the services of that seasonal
38 employment, unless that disability is removed before the close of
39 that period and the qualified taxpayer fails to offer seasonal
40 employment to that qualified disadvantaged individual.

1 (iii) A failure to continue the seasonal employment of a
2 qualified disadvantaged individual, if it is determined that the
3 failure to continue the seasonal employment was due to the
4 misconduct (as defined in Sections 1256-30 to 1256-43,
5 inclusive, of Title 22 of the California Code of Regulations) of
6 that individual.

7 (iv) A failure to continue seasonal employment of a qualified
8 disadvantaged individual due to a substantial reduction in the
9 regular seasonal trade or business operations of the qualified
10 taxpayer.

11 (v) A failure to continue the seasonal employment of a
12 qualified disadvantaged individual, if that individual is replaced
13 by other qualified disadvantaged individuals so as to create a net
14 increase in both the number of seasonal employees and the hours
15 of seasonal employment.

16 (C) For purposes of paragraph (1), the employment
17 relationship between the taxpayer and an employee shall not be
18 treated as terminated by either of the following:

19 (i) A transaction to which Section 381(a) of the Internal
20 Revenue Code applies, if the employee continues to be employed
21 by the acquiring corporation.

22 (ii) A mere change in the form of conducting the trade or
23 business of the taxpayer, if the employee continues to be
24 employed in that trade or business and the taxpayer retains a
25 substantial interest in that trade or business.

26 (3) Any increase in tax under paragraph (1) shall not be treated
27 as tax imposed by this part for purposes of determining the
28 amount of any credit allowable under this part.

29 (4) At the close of the second taxable year, if the taxpayer has
30 not increased the number of its employees as determined by
31 paragraph (5) of subdivision (b), then the amount of the credit
32 previously claimed shall be added to the taxpayer's tax for the
33 taxpayer's second taxable year.

34 (f) In the case of an organization to which Section 593 of the
35 Internal Revenue Code applies, and a regulated investment
36 company or a real estate investment trust subject to taxation
37 under this part, rules similar to the rules provided in Section
38 46(e) and Section 46(h) of the Internal Revenue Code shall
39 apply.

(g) The credit shall be reduced by the credit allowed under Section 23621. The credit shall also be reduced by the federal credit allowed under Section 51 of the Internal Revenue Code.

In addition, any deduction otherwise allowed under this part for the wages or salaries paid or incurred by the taxpayer upon which the credit is based shall be reduced by the amount of the credit, prior to any reduction required by subdivision (h) or (i).

(h) In the case where the credit otherwise allowed under this section exceeds the “tax” for the taxable year, that portion of the credit that exceeds the “tax” may be carried over and added to the credit, if any, in succeeding years, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

(i) (1) The amount of credit otherwise allowed under this section and Section 23645, including any prior year carryovers, that may reduce the “tax” for the taxable year shall not exceed the amount of tax that would be imposed on the taxpayer’s business income attributed to a LAMBRA determined as if that attributed income represented all of the income of the taxpayer subject to tax under this part.

(2) Attributable income shall be that portion of the taxpayer’s California source business income that is apportioned to the LAMBRA. For that purpose, the taxpayer’s business income that is attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101). That business income shall be further apportioned to the LAMBRA in accordance with Article 2 (commencing with Section 25120) of Chapter 17, modified for purposes of this section in accordance with paragraph (3).

(3) Income shall be apportioned to a LAMBRA by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer’s real and tangible personal property owned or rented and used in the LAMBRA during the taxable year, and the denominator of which is the average value of all the taxpayer’s real and tangible personal property owned or rented and used in this state during the taxable year.

1 (B) The payroll factor is a fraction, the numerator of which is
2 the total amount paid by the taxpayer in the LAMBRA during the
3 taxable year for compensation, and the denominator of which is
4 the total compensation paid by the taxpayer in this state during
5 the taxable year.

6 (4) The portion of any credit remaining, if any, after
7 application of this subdivision, shall be carried over to
8 succeeding taxable years, as if it were an amount exceeding the
9 “tax” for the taxable year, as provided in subdivision (h).

10 (j) If the taxpayer is allowed a credit pursuant to this section
11 for qualified wages paid or incurred, only one credit shall be
12 allowed to the taxpayer under this part with respect to any wage
13 consisting in whole or in part of those qualified wages.

O